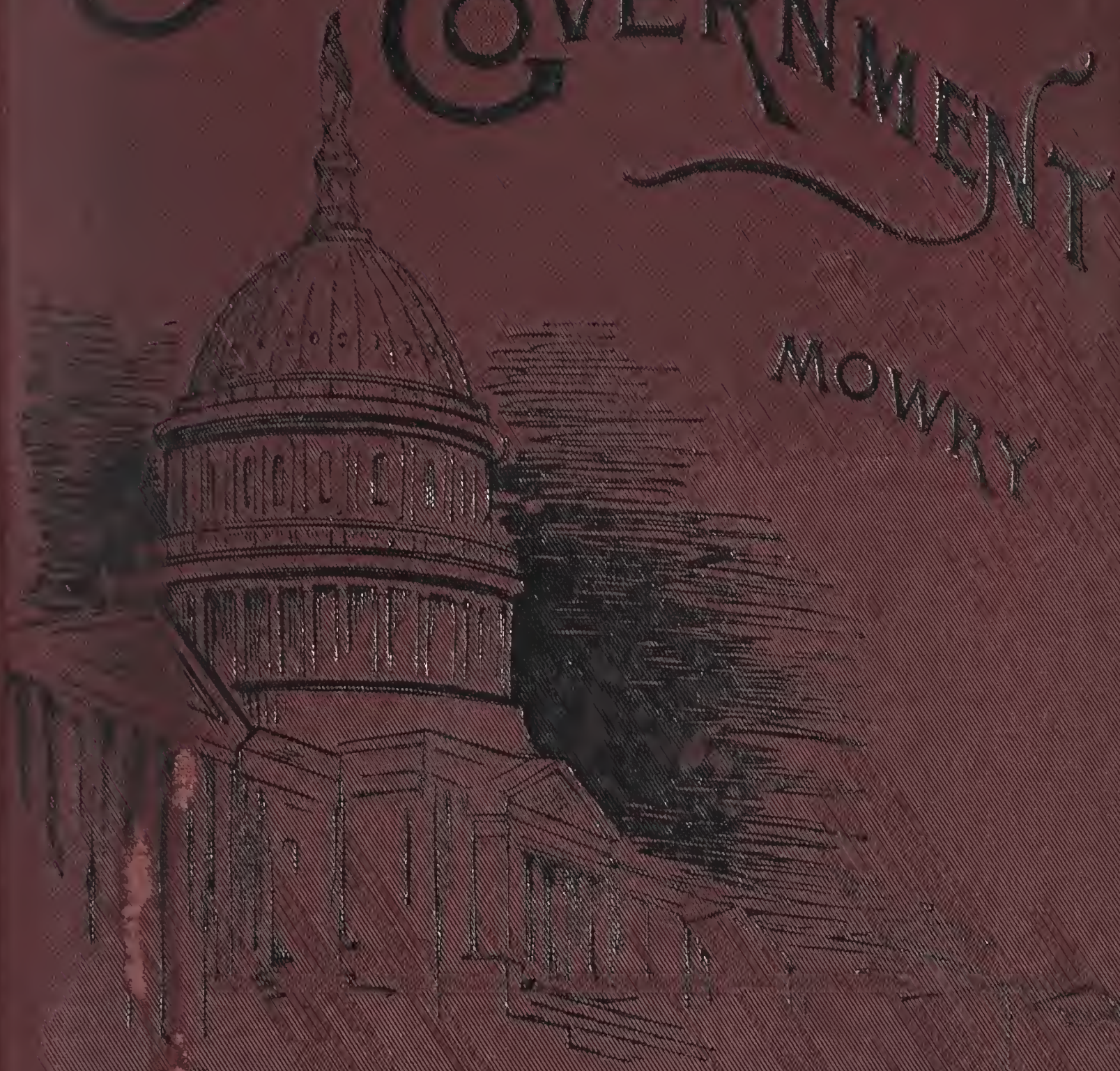


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ELEMENTS  
of  
CIVIL GOVERNMENT

MOWRY



NEW YORK EDITION



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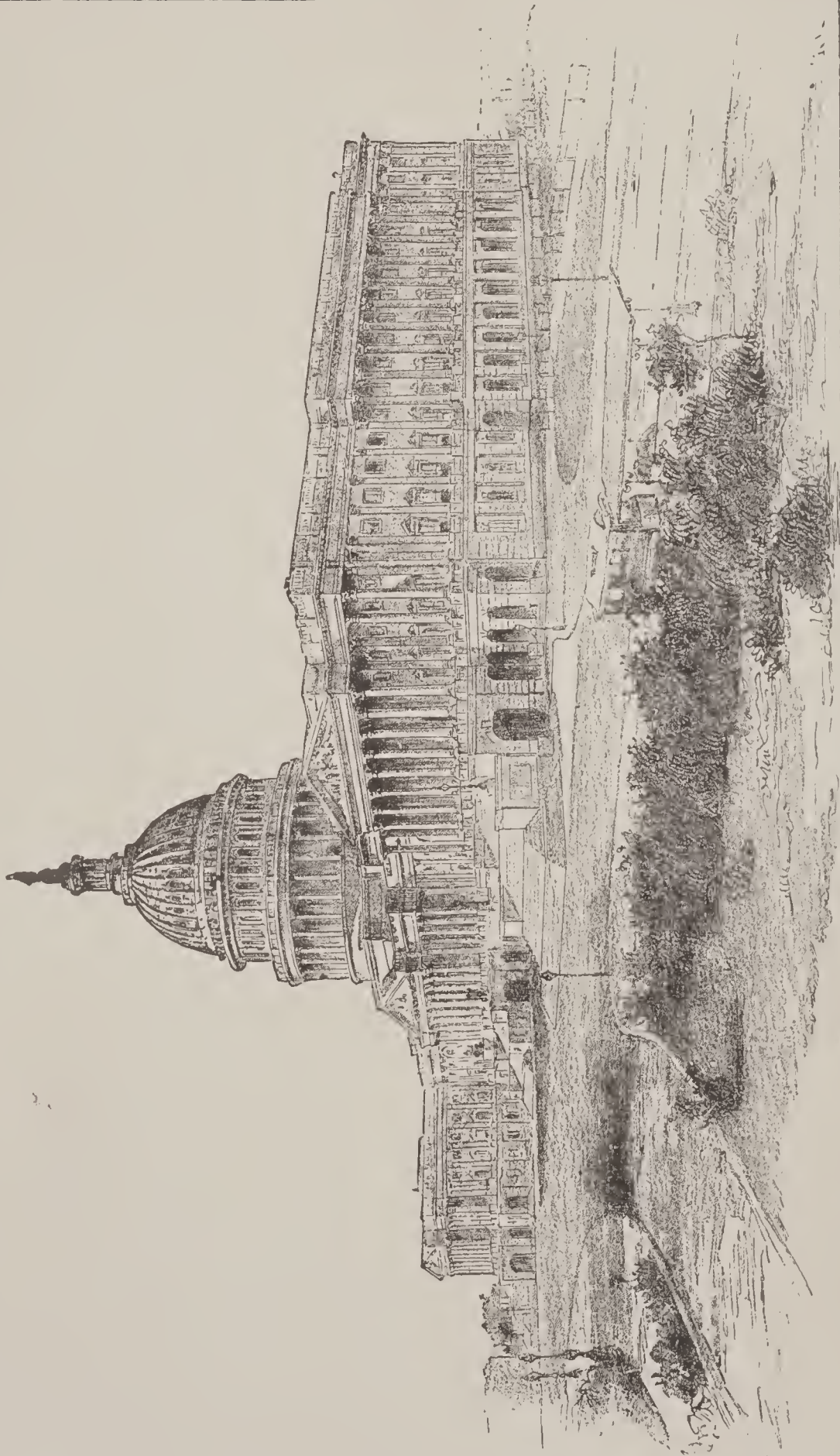
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THE CAPITOL AT WASHINGTON.





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## PREFACE.



ONE of the most gratifying signs of the times is the increasing interest of late manifested in different parts of the country in the study of our Civil Government. This growing interest is seen in the multiplicity of books relating to this subject, its general discussion in the daily and weekly press and the monthly and quarterly magazines, the formation of Societies for Promoting Good Citizenship, and especially in the great increase in the introduction of the study of Civil Government into the public and private schools, academies, and colleges in all parts of the country. It is doubtless true to-day that the study is carefully pursued in many high, grammar, and ungraded schools in every state in the Union. It should be, in every school in the country where there are pupils above thirteen years of age.

Our public school system is maintained upon the principle that the safety of free institutions demands intelligence on the part of every citizen. If the property of the state is to be taxed to educate the children of the state, it surely follows of necessity that the principles, methods, powers, and duties of the government, and the relation of the parts to each other and to the whole,

as well as the duties and privileges of the citizen, should be studied in these schools.

We have many treatises upon the Constitution of the United States, and text-books of a higher grade for the study of Civil Government in high schools, academies, and colleges, — books so extended and complete that a full year is required to master them; but it is everywhere felt that a suitable book is very much needed for ungraded and grammar schools, and for high schools in the smaller towns and cities, where time cannot be found for an extended study of the subject. Moreover, it is found that many of the text-books are written for older and more mature pupils, thus being entirely above the reach of the younger and more immature minds in the schools just mentioned.

It is the hope of the author that this book will be found well adapted for the purpose above indicated. It attempts to discuss, in a brief and elementary manner, the foundation principles and general facts of our government, local, state, and national, in language easily understood by pupils from twelve to sixteen years of age, and at the same time without making the silly and futile attempt to degrade the dignity of the subject to the language and style of the primer, the first or the second reader. This subject can scarcely be studied to advantage by primary scholars, but it can be pursued with entire success by nearly all boys and girls who have studied arithmetic to percentage, and who can comprehend the good English of a fourth reader.



It is believed that the plan of this elementary treatise will commend itself to teachers everywhere. It is analytical and topical. It includes, —

1. Town Governments.
2. City Governments.
3. County Governments.
4. State Governments.
5. The National Government.

It introduces the history of the early settlements and the colonies, the formation of the state and national governments, and the rapid and marvellous growth of the republic.

It gives topical analyses for blackboard work, and general outlines for reviews.

This book is not designed to take the place of the author's "Studies in Civil Government," but its purpose is to furnish a shorter course, which can be used in schools where younger pupils can spend from three to six months in the study of an elementary book, but would find the larger and more mature treatise too extensive and too difficult.

The author takes this opportunity to express his grateful appreciation of the cordial reception and extended introduction given to his former book, entitled "Studies in Civil Government," which in two years has passed through four editions, and is now in extensive use in all sections of our common country. That book has just been thoroughly revised, and the necessary

changes made to adapt it to the present condition of our state and national governments.

It may not be improper to add that these two books have not been made at the study table merely, but have grown out of twenty-five years of practical teaching, in which the author has had a class every year in this subject, and that not a few men now prominent in both public and business life have expressed the conviction that this study has proved of greater interest and of more practical value to them than that of any other subject of their entire school curriculum.

The author desires to express the hope that this brief treatise may serve to promote a higher appreciation of, and a stronger love for, our free institutions and our liberal government "of the people," to the end that they may be perpetual.

WILLIAM A. MOWRY.

DORCHESTER, May 1, 1890.

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ELEMENTS OF CIVIL GOVERNMENT.

## BLACKBOARD OUTLINE.



### GOVERNMENT.

**1. Local.**

Town, Township, or County.

**2. State.**

At first thirteen states, now forty-four.

**3. National.**

A true republican government of confederated states.



# *PART FIRST.*

## LOCAL AND STATE GOVERNMENTS.



### CHAPTER I.

#### INTRODUCTORY.

WE live in a republic. Our country is called the United States of America. It extends from the Atlantic Ocean on the east, across the Valley of the Mississippi River, over the Rocky Mountains to the Pacific Ocean on the west. On the south is the Gulf of Mexico and the republic of Mexico; on the north is British America; then far to the northwest beyond British Columbia is Alaska, which also belongs to the United States. We have forty-four states, six territories, and the District of Columbia in which is the city of Washington, the capital of our country.

All the people in this broad country are citizens under one government. This is called the Na-

tional Government. This National Government is divided into three parts, called the Legislative, the Executive, and the Judicial departments.

The legislative department consists of a Congress of the United States, which includes two branches, the Senate and the House of Representatives.

The executive power is invested in one man called the President of the United States.

The judicial department comprises a series of Courts, including the United States District Courts, the United States Circuit Courts, and the Supreme Court of the United States.

There are in this country subject to this one government more than sixty millions of people. This is the largest, most prosperous, and most powerful republic in the world. We ought to be thankful that we live under a good government and that our nation is large, and strong, and powerful.

By and by we shall want to study the history of this government, when and how it began, and how it has grown to its present prosperous condition; but before taking up this subject, let us consider some other matters. We live not only in a republic but in a commonwealth. We are not only citizens of the United States, but we are citizens of the state of ———

Every state has a government of its own. This government consists, like the National Government, of the Legislative, Executive, and Judicial departments. The legislative department, usually called the State Legislature, includes a Senate and a House of Representatives. The executive officer of the state is called the Governor. The courts of the state include local courts, — that is, Police Courts or Justice Courts, — County Courts, for the trial of civil and criminal cases, and the Supreme Court of the State.

Again, we are not only citizens of the United States, and citizens of our state, but we are citizens of the town or city in which we live. So we have a third kind of government, a local government, that is, the government of our town or city. It will be necessary, therefore, in our study of Civil Government, to keep constantly in mind that we are subject to our local government, to the laws of the state and to the laws of the United States. In all matters that relate to local affairs the town or city government has full power; in another set of subjects, relating to the general good of the people of the commonwealth, the state government has full control; but in everything which concerns the nation at large, the authority is vested in the National Government.

In Emerson's beautiful little poem of the mountain and the squirrel, he makes the little rodent say to the mountain, "If I cannot carry a forest on my back, neither can you crack a nut." Each has its place and its duties and the other cannot interfere.

The term "state sovereignty" is a misnomer. There is no such thing, and cannot be in a republic. Indeed there is—in the true sense of the word—no "sovereignty" in a republic, for there is no "sovereign." It is only by a figure of speech that we say "the people are sovereign." The township cannot interfere with the state or the nation, neither has the state or the nation the right to infringe upon the powers or prerogatives of the town.



QUESTIONS, TOPICS, AND SUGGESTIONS FOR  
REVIEW.

Designed to recall what has been learned and to suggest further thought, reading, and study.

1. What is a republic?
2. Describe the republic we live in.
3. How many square miles does it contain?
4. Citizens of towns, city, or county, of state and of nation.
5. Legislative department — law-making.
6. Executive department — enforcing.
7. Judicial department — interpreting.

## BLACKBOARD OUTLINE.



### TOWN OFFICERS.

- |  |                           |
|--|---------------------------|
| 1. Moderator.                                | 5. Assessors.             |
| 2. Town Clerk.                               | 6. Constable.             |
| 3. Town Treasurer.                           | 7. School Committee.      |
| 4. Selectmen.                                | 8. Overseers of the Poor. |
| 9. Highway Surveyors, or Road Commissioners. |                           |

### CITY OFFICERS.

- |                           |                               |
|---------------------------|-------------------------------|
| 1. Mayor.                 | 6. City Clerk.                |
| 2. Aldermen.              | 7. City Treasurer.            |
| 3. Councilmen.            | 8. City Solicitor.            |
| 4. School Committee.      | 9. City Auditor.              |
| 5. Overseers of the Poor. | 10. City Marshal, and others. |

### COUNTY OFFICERS.

- |  |                       |
|--|-----------------------|
| 1. County Commissioners.                   | 5. County Sheriff.    |
| 2. County Treasurer.                       | 6. Coroner.           |
| 3. County Auditor.                         | 7. District Attorney. |
| 4. County Registrar.                       | 8. County Assessors.  |
| 9. County School Commissioner, and others. |                       |

## CHAPTER II.

### LOCAL GOVERNMENT.

#### SECTION I. — THE TOWN.

THE town is the local unit of government. The town government in this country originated in New England. In the new states of the west different circumstances have produced a different condition of local government. In the early settlements of New England a town included a little territory, generally with a central village and outlying farms scattered here and there. The people of this territory formed a compact settlement by itself and constituted a little democracy, where all the people came together in town meeting and made laws for themselves, assessed taxes, ordered roads built, schools to be supported, and determined by a majority vote whatever seemed best for the well-being of the little settlement.

These towns were grouped together in a colony, and the colonists were, at that time, subject to Great Britain. The first town meeting in America was held in Dorchester, Massachusetts,

in the year 1633. It was then established as an institution for that town. The citizens voted that the meeting should be held monthly, and that all matters relating to the welfare of the town were to be determined by a majority vote, the minority yielding their preferences and agreeing to be governed by the majority. Other towns followed this example and established town meetings the next year, 1634.

The establishment thus early in the history of our country of the town meeting has proved the source of much of our freedom at the present time in state and nation. In the newer settlements in the west covering greater areas of territory, generally without the nucleus of a village, the township, as the people call it there, is of less importance, while much of the local government is necessarily administered by counties.

## SECTION II. — TOWN OFFICERS.

A town meeting must be legally called. Notices are posted in accordance with law, stating distinctly the business, article by article, which is to be transacted by the voters of the town in the meeting. At the *annual* town meeting the various officers of the town are elected. In some states the voting for the principal town officers must be



by ballot. The meeting is called to order by the town clerk, then the warrant is read and a moderator is elected. It is the duty of the moderator to preside at the meeting, to put all motions, declare the vote, to see that everything is done in proper legal form, and to preserve order. The principal officers of a town are mentioned below.

**Who are Voters.** — In most of the states the requisites for voting in town, county, state, and national elections are as follows:—The person must be a citizen of the United States, twenty-one years of age; must have resided within the state, and county or town, the time required by law. Some states require a poll or registry tax. Some do not require citizenship. More than twenty states permit women to vote for School Committee; and in Wyoming, for all officers and on all questions, the same as men. Kansas has municipal suffrage for women.

Besides the appointment of town officers the voters assembled in town meeting levy taxes, and make apportionments of money for school purposes, highways, the support of the poor, and for such other purposes as may seem necessary, such as street lights in thickly settled portions of the town, fire engines, bridges, and various other matters.

**Town Clerk.** — It is the duty of the Town

Clerk to keep the records of all business done in the town meetings during the year for which he was elected, to keep records of births, marriages, and deaths in the town, and perform such other duties of a like nature as the law requires.

**Town Treasurer.** — It is the duty of the Town Treasurer to keep safely all moneys intrusted to him, receiving the town's money from the Collector of Taxes, from the debtors of the town in payment of bills due to the town, moneys received from the state for specified purposes and from any other sources from which the town may receive money. He is to pay out this money on the orders of the proper town officers in accordance with law, and in payment of bills against the town when certified or audited by the proper officers. The Town Treasurer is also required to look after the invested funds of the town, receiving the interest or income from such funds, and making a report as occasion may require from time to time to the town meeting or to the Selectmen.

**Selectmen.** — The Selectmen or Town Council, or, as they are called in some states, trustees of townships, have the general charge of the executive business of the town. They call the town meetings. In many states they receive and count the votes for state and national offi-

cers, they act as a board of health, where a board has not been appointed, they lay out highways, appoint certain minor officers, they represent the town in suits at law, they draw jurors, in some cases grant licenses, and do many other things, some of which differ in different states.

**Assessors of Taxes.** — It is the duty of the Assessors of Taxes to make an inventory of all the real estate in the town with the names of the owners thereof, of all personal property and owners, and make a list of the names of all persons against whom a poll tax is levied. The town having voted the amount of tax to be raised, the assessors will subtract from this sum the amount of all poll taxes, and then determine the percentage which is necessary to raise the remainder of the required tax from the total taxable property of the town. The tax list is then turned over to the Collector, whose duty it is to notify each person what his tax is and demand payment thereof. This notice usually states when and where the tax may be paid, and if not paid within the time allowed by law, then the Collector must institute measures in accordance with law for its collection from the property assessed.

**Constable.** — It is the duty of the Constable, like a police officer, to make arrests in accordance with law of persons charged with crime. A Con-

stable having arrested a person will hold him as prisoner and convey him to a safe place of detention, keeping him in custody until he shall have a trial and be acquitted or sent to jail. It is the duty of the Constable also to serve warrants and writs, summon witnesses, and to perform all such duties as are laid upon him by law.

**School Committee.** — Our people maintain in all the states and in all the territories a system of free schools. These schools are not established and maintained by national authority, but by state and territorial laws. In some states the schools are sustained by the state government, under uniform state laws, the state holding in its hands absolute control of all public schools within its jurisdiction. In such cases the state provides for the appointment generally of county superintendents and county school boards, the township having but little jurisdiction in the matter. In most of the older states, in the eastern part of the country, the township system prevails. In this section the state usually has a Board of Education and makes laws concerning the schools and their general management, but leaves the particular care of them to the towns. In such cases there is usually a state appropriation for school purposes, and another appropriation by each town, according to its needs. In this case the schools



of the town are placed under the control of the School Committee elected by that town. This Committee usually consists of three or more persons, generally an odd number, who, in accordance with the laws of the state, have the entire management and control of the public schools. In most states having School Committees they examine the teachers, grant them certificates, fix the rate of wages, approve the bills for payment, build, repair, and keep in order the school-houses, arrange courses of study, examine the schools, determine rules and regulations for them, etc. In some states women, as well as men, vote for members of the School Committee.

**Overseers of the Poor.** — These officers have charge of the poor people belonging in the town, who have no relatives to support them, making proper arrangements for their support, either in the almshouse — sometimes called the poor-house — or boarding them in private families. In some cases this duty is assigned to the Selectmen.

**Road Commissioners or Highway Surveyors.** — These officers have charge of all the necessary repairs on the highways and of the building of new roads when ordered by the town. The duties of other town officers need not be specified.

Herrick's "Powers and Duties of Town Officers in Massachusetts" gives the following as the law in that state concerning town meetings :



“Every town meeting shall be held in pursuance of a warrant under the hand of the selectmen, directed to the constables or to some other persons appointed by the selectmen for that purpose, who shall forthwith notify such meeting in the manner prescribed by the by-laws or by a vote of the town. The selectmen may by the same warrant call two or more distinct town meetings for distinct purposes.

“The warrant shall express the time and place of the meeting, and the subjects to be there acted upon; the selectmen shall insert therein all subjects which may, in writing, be requested of them by any ten or more voters of the town, and nothing acted upon shall have a legal operation, unless the subject-matter thereof is contained in the warrant.”

The following is the form of the warrant for calling the Annual Town Meeting in the state of Massachusetts:—

WARRANT FOR CALLING THE ANNUAL TOWN MEETING.

E—, ss. To either of the Constables of the town of B—, in the said county, Greeting:

In the name of the Commonwealth of Massachusetts, you are directed to notify the inhabitants of the town of B— qualified to vote in elections and in town affairs, to meet at the Town Hall in said B—, on — the

— day of — next, at — o'clock in the forenoon, then and there to act on the following articles: —

1. To choose a moderator to preside in said meeting.
2. To choose all necessary town officers for the year ensuing.
3. To hear the annual report of the selectmen, and act thereon.
4. To raise such sums of money as may be necessary to defray town charges for the ensuing year, and make appropriations of the same.

And you are directed to serve this warrant, by posting up attested copies thereof, one at the Town Hall, and one at each of the public meeting-houses in the said town, fourteen days at least before the time for holding said meeting. The polls will open at — o'clock, A.M., and will close at — o'clock, P.M.

Hereof fail not, and make due return of this warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting as aforesaid.

Given under our hands this — day of —, in the year one thousand eight hundred and —.

SELECTMEN OF B—

[NOTE TO THE TEACHER. — Object lessons are the most effective of all lessons. It is the practice of some of our best teachers to have the scholars conduct a mock town meeting. Previous to the day on which the town meeting is held, the teacher should write off, or have written, a warrant, which should be posted in some convenient place in the school-house, signed by the selectmen, previously appointed from the scholars by the teacher. A town constable and a town clerk should also be previously appointed; — the constable to post the warrant and make returns thereon, and the town clerk should call the meeting to order, and preside until a moderator be elected.

On the day the town meeting is held, the school should organize and carry through the forms of such a meeting according to the warrant already posted. If it be an Annual Town Meeting, let the town officers be elected by ballot, let the business of the town, as embodied in the warrant, be conducted in order, and the meeting finally adjourned.

Any skilful teacher who has a few bright scholars in the school (and what school has not?) will find this practice of holding town meetings or of holding mock courts, or a Legislative Assembly, as the House or the Senate, to be of much interest and of great value to the school.]

### SECTION III. — CITIES.

When the population of the town becomes so large that it would be difficult to transact public business in the town meeting, it is customary all over the country for the town, by a majority vote, to apply for a city charter. In some states a special act of the Legislature is necessary to grant a charter for the new city. In other states a charter may be obtained, under circumstances defined by law, from the officers of the state in accordance with a general statute for the incorporation of cities. This charter must be accepted by a majority of the legal voters at the town meeting called for that purpose. The charter defines the powers and duties of the several officers to be chosen under it.

**The City Government.** — The City Government is vested in the Mayor and the City Council. The Council may consist of two bodies, (1) a

Board of Aldermen and (2) a larger board called a Common Council, or it may consist of but one body, a Board of Aldermen and no Council, or a Council and no Board of Aldermen.

The Mayor is elected by the voters of the whole city. The Aldermen are in some cases elected by wards or districts, and in others on a general ticket for the whole city. The members of the Common Council are usually elected by wards.

The city, like the town, has its school committee, assessors of taxes, overseers of the poor, clerk, treasurer, collector of taxes; and it usually has a superintendent of streets, officers of the fire department, a city solicitor, a city physician, auditor, city marshal or chief of police, and sometimes other officers. Many of these officers are appointed by the City Council rather than elected by the people.

**Mayor.** — The Mayor is the executive officer of the city. He must see that the laws are enforced, and that subordinate officers are faithful in their duties. He makes recommendations to the City Council. Usually he has a veto power over the Council similar to the veto power of the Governor over the legislature. The Mayor in some cases is considered as a member of the Board of Aldermen, and presides over them. In other cases he presides over them but has only



the casting vote. In still other cases he is not connected with the Board of Aldermen.

**The Aldermen.** — The Board of Aldermen have powers and duties corresponding to those of the selectmen in the towns. They draw jurors, issue warrants for ward meetings, and in legislative matters have joint power with the Common Council.

**City Council.** — The City Council, whether consisting of one body or of two, have the power to fix the salaries of officers, to levy taxes, borrow money, make appropriations for the various departments of the City Government, and in general to care for the public interests of the city. The City Council pass what are called ordinances relating to public matters, like the construction of sewers, the erection of buildings, obstruction of streets, prevention against fires, punishing vagrancy and truancy, and whatever is needful for the preservation of property, the public health, and the general well-being of the city.

The town organization, as has been seen, is a democracy, while the City Government is representative. The executive power of the mayor and aldermen in the city corresponds to that of the selectmen in the town. The legislative power in the city is found in the City Council instead



of the whole body of voters as in the town. The City Council elects inferior officers instead of the people as in the town. In the city, voters meet in districts or wards for the election of officers, while in towns all the voters usually meet in one body. In some instances, however, large towns have been divided into voting precincts.

#### SECTION IV. — COUNTIES.

The state is divided for convenience in local government into counties, or into counties and towns. In the south and some portions of the west, the states are divided into counties only. In New England and some of the Middle and Western States, the counties are sub-divided into towns or townships. The division into counties is found in every state except Louisiana, which is divided into parishes.

In all states where the counties are divided into towns, the town is the unit of government, and in some states more important than the county. Where the counties are not thus divided, the county is the unit of government. Where towns exist, the local government is divided between the county and the town. Both counties and towns are corporations.

**County Commissioners.** — In most of the states, but especially in those states where the local gov-

ernment is vested in the county rather than the town, the chief executive officers for the counties are called County Commissioners. In some states there are officers called supervisors, and the supervisors of the several towns in the county form a board of supervisors for that county. These boards have the care of the public property of the county and attend to all matters of building or repairing public buildings, such as the courthouse and county jail. In those states where no towns are found, or where the county officers have more political power than those of the towns, these county boards or county commissioners exercise large powers with regard to schools, taxes, highways, bridges, etc.

**County Treasurer.** — Each county has a Treasurer who has the custody of all moneys belonging to the county, receiving the funds and paying them out as required.

**County Auditor.** — In some states there are officers called County Auditors, whose duty it is to examine and certify bills against the county.

**Recorder or Registrar of Deeds.** — In most states each county has a Recorder or Registrar of Deeds, whose duty it is to keep permanent records of all deeds, mortgages, and other written instruments which are required by law. In a few states these records are kept by the town clerks in the several towns.

**Sheriff.** — Each county has a Sheriff, or, as in some states, a Deputy Sheriff, to distinguish him from the High Sheriff. It is the duty of the Sheriff to execute all warrants, writs, and other processes intrusted to him by the courts, to arrest persons accused of crime, and to have charge of the county jail and its prisoners.

**Coroner.** — It is the duty of the Coroner to inquire into the causes of the death of persons who have died suddenly or by violence. The Coroner summons a jury, who examine witnesses and give their opinion in writing as to the manner and cause of the person's death. This is called a Coroner's inquest.<sup>1</sup>

**District Attorney.** — It is the duty of the District Attorney to conduct the prosecution in all courts of the county in which persons are tried for crimes. He is sometimes called the prosecuting attorney or the state's attorney.

**Assessors.** — Wherever the taxes are assessed and collected by counties instead of by towns, the counties have Assessors and Collectors of Taxes. Their duties have already been described. There are also county Surveyors and other officers differing in different states.

**School Commissioners or Superintendents.** — In a large number of states the public schools are managed by counties. In such cases the county

<sup>1</sup> In Massachusetts, where there is no Coroner, the inquiry is made by a "Medical Examiner," and the inquest is held by a court or trial justice.

has a School Commissioner or a Superintendent of Schools, whose duty it is to examine teachers, visit the schools, and attend to general matters relating thereto, but only as directed by the laws of the state. In some states there are county boards of education, differently constituted, who have under their care the interests of the public schools.

These various county officers may be considered as belonging to two classes in respect to their jurisdiction. Some of them are the representatives of the county only, while others are considered as state officials, but exercise their power only in their own county. The County Sheriff arrests a man for crime, but as the crime is fixed by state law, it is considered that the state arrests the man; yet this arrest is made by the agent of the county. So when the district attorney prosecutes him, it is in the name of the state whose law he has violated. But the county commissioners, or the recorder, or county treasurer act only for their county, and in no sense in the name of the state

#### SECTION V. --- EDUCATION.

Perhaps no department of our government is of more importance than our system of public schools. Although these are supported and regu-



lated by the state, yet they are substantially local institutions and may properly be treated in this place.

Monarchies do not necessarily rely on the intelligence of the people for the preservation of their form of government, but a republic is made secure only by the intelligence and morality of all the people. It is generally agreed that intelligence, enterprise, thrift, and virtue are essential elements for a popular government. It would be unwise and dangerous to the state for us to allow any portion of our people to bring up their children in ignorance or vice.

The public school began its history in this country in New England. The Boston Latin School dates from 1635. Harvard College was founded, partly by private gifts and partly by the government of Massachusetts Bay, in 1636. The town of Dorchester established the first public school which was supported by taxation in 1639. From this time onward the district school in New England became an important institution, so that long ago it was considered one of the boasted products of New England.

When the territory northwest of the Ohio River was first settled, many of the pioneers went from the Eastern States. They carried with them and established in that section the New England



system of public schools. This institution has since prevailed in all the great northwest and in the states upon the Pacific coast, and since the late war it has been established by law in every southern state. All the organized territories have also established for themselves public schools. We have then to-day a system of public schools prevailing in every state of the Union, in every organized territory, and in the District of Columbia. The laws relating to the schools, as well as their management, differ greatly in different states. In New England, where they first started, much is left to the people of each town. The state has a Board of Education and a Superintendent of Public Instruction. In some states this officer is called a Commissioner of Education, in others he is termed the Secretary of the Board of Education. The state makes laws for the government of the schools, and apportions a certain sum of money among the several towns, but each town levies a tax upon its inhabitants and their property for school purposes.

In the west and the south the states have a more direct management of the schools, exercising a more immediate control over them. Many states have school funds to aid in supporting their public schools. In those states where the counties are not divided into townships, the schools are county

schools, usually divided into districts for schools of the lower grades, but having one or more county high schools.

In some states public schools are largely elementary in their character, but a majority of the states carry public instruction through a high school course. Many of the Western States maintain also state universities, in which any young person belonging in the state can have free instruction through a liberal course of college or university study.

**Private Institutions of Learning.** — In addition to the public schools, all sections of our country maintain many private institutions of learning. There are private schools — primary, grammar, and high — in most of our large towns and cities. Many academies and seminaries have been founded and endowed by benevolent persons, where an excellent education can be obtained at moderate expense. Colleges and universities are numerous in all parts of our country. Many of them are well endowed with large funds, enabling them to give a liberal education at a small part of its actual cost. Of late, parochial schools have been established by the Roman Catholic Church in large numbers in different sections of the country. The different Protestant denominations have, to a greater or less

extent, denominational schools here and there, of various grades. Perhaps there is no country in the world where the opportunities for every one to obtain a good education are more widespread than in the United States of America.

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QUESTIONS, TOPICS, AND SUGGESTIONS FOR  
REVIEW.

Designed to recall what has been learned and to suggest further thought, reading, and study.

TOWNS.

1. Give an account of the early New England town.
2. Western towns. Why are the towns in some sections of less relative importance than in New England?
3. Town meeting — importance.
4. Town officers — how elected.
5. Duties of Town Clerk.
6. Duties of Town Treasurer.
7. Duties of Selectmen.
8. Duties of Assessors.
9. Duties of Constable.
10. Duties of School Committee.
11. Duties of Overseers of the Poor.
12. Duties of Road Commissioners.
13. What preliminaries are needed before a town meeting can be legally organized?
14. What can be done legally in a town meeting?

CITIES.

15. What is a city charter?
16. How obtained?

17. Difference between a town government and a city government.

18. How is the Mayor elected?

19. Duties of Mayor.

20. Duties of Aldermen.

21. Duties of Councilmen.

#### COUNTIES.

22. Where are counties of the most importance? Why?

23. What state has no counties?

24. When are counties units of government?

25. Duties of County Commissioners.

26. Duties of County Treasurer.

27. Duties of County Auditor.

28. Duties of Recorder.

29. Duties of Sheriff.

30. Duties of Coroner.

31. Duties of District Attorney.

32. Duties of Assessors.

33. Duties of School Commissioners.

34. Write an essay upon our system of public schools.

[Let different pupils take different topics concerning public schools, e.g.: (1) Why is it right or just to tax all the property to support public schools? (2) The necessity of compulsory education. (3) Should the state support high schools? (4) Should it support colleges? (5) Advantages and disadvantages of private schools. (6) Advantages of graded schools. (7) Why should we learn to read? (8) Is it a disgrace to be a poor speller? (9) Is it any credit to be a good speller?]

## BLACKBOARD OUTLINE.



### DEPARTMENTS OF GOVERNMENT.

- |                |  |               |
|----------------|--|---------------|
| 1. Legislative |  | 2. Executive. |
|                |  | 3. Judicial.  |

#### LEGISLATIVE DEPARTMENT.

- |               |  |                |
|---------------|--|----------------|
| 1. The House. |  | 2. The Senate. |
|---------------|--|----------------|

#### EXECUTIVE DEPARTMENT.

- |                  |  |                             |
|------------------|--|-----------------------------|
| 1. The Governor. |  | 2. The Lieutenant-Governor. |
|                  |  | 3. The Council.             |

#### OTHER EXECUTIVE OFFICERS.

- |                        |  |                                 |
|------------------------|--|---------------------------------|
| 1. Secretary of State. |  | 5. Surveyor-General.            |
| 2. Treasurer.          |  | 6. Commissioner of Public       |
| 3. Auditor.            |  | Schools.                        |
| 4. Attorney-General.   |  | 7. State Librarian, and others. |

#### THE STATE COURTS.

- |                    |  |                   |
|--------------------|--|-------------------|
| 1. Justice Courts. |  | 3. County Courts. |
| 2. Police Courts.  |  | 4. Supreme Court. |



## CHAPTER III.

### STATE GOVERNMENTS.

#### SECTION I. — THEIR ORIGIN.

WHEN the War of the Revolution commenced, it united thirteen English colonies, which were located along the Atlantic coast of North America, in rebellion against the British government. On the 4th of July, 1776, these colonies, through their delegates assembled in the Continental Congress, declared themselves independent of the mother country, and published to the world their intention of taking their place as one of the nations of the earth. The several colonies at that moment became states. They immediately adjusted their government in accordance with the new conditions under which they were placed. On that same day began the new nation of the United States of America, and the separate existence of each state as a state in the Union. One after another of these states formed a written constitution for itself, some just before, the others after the Declaration. These were termed state constitutions. Every one of the present forty-

four states has a written constitution, which was formed by a convention of the people, and which has been adopted by a majority vote.

Virginia was the first state to adopt a constitution, June 29, 1776. On the 2d of July, New Jersey adopted a constitution. These two were prior to the Declaration of Independence. Before the end of that year, Maryland, Delaware, Pennsylvania, and North Carolina had adopted constitutions. In 1777 Georgia, New York, and Vermont adopted constitutions, although Vermont was not admitted into the Union as a state until 1791. South Carolina adopted her constitution in 1778, Massachusetts in 1780, and New Hampshire in 1784.

Connecticut and Rhode Island continued their governments under their former charters received from the king. The charter of Connecticut dated from April 20, 1662, and it served as a constitution for that state until the year 1818. The charter of Rhode Island went into operation July 8, 1663, and that little state retained it as her constitution until the year 1842, when she adopted a state constitution. At the time that charter was superseded by the new constitution (1842), it was the oldest written constitution then in force in the world.

These various state constitutions all contained substantially: —

1. A Bill of Rights.
2. An Executive Department.
3. A Legislative Department.
4. A Judicial Department.

## SECTION II. — THE LEGISLATIVE DEPARTMENT.

The Legislative Department makes the laws for the state, but the state laws must not conflict with the constitution of the state nor the constitution of the nation. The state laws relate to matters of justice, equity, and rights, concerning the dealings of the citizens with each other and with the state. They provide for the organization of corporations, the establishment and support of educational and charitable institutions, and make all needed regulations for the prosecution and punishment of crime. In general, the aim of the Legislature in all laws is to promote the general welfare of the people of the state.

It was but natural that these English colonists should follow in many things the notions and customs which they had received from the mother country. In Great Britain the Legislative Department of the government included the House of Commons and the House of Lords. The American states severally, and the United States in its constitution, all followed the British system of two houses.

**The House of Representatives.** — Each state has a House of Representatives, although not always called by that name. The Representatives are chosen in nearly all of the states on the basis of population. For this purpose the state is divided into representative districts. A few states elect representatives for one year, but more elect for two years; while some elect for three years, and a few for four years.

**The Senate.** — The Senate is considered the upper house of the Legislature. The office of Senator is supposed to be of higher honor than that of Representative. The Senators are chosen from senatorial districts, which in all of the states are larger than the representative districts, making the Senate a smaller body than the House. Each house has a list of standing committees, and most of the business of the two houses is considered, examined, digested, and reported to the house by the appropriate committees; so that much of the ordinary business of the house is to pass a formal sanction upon what has been done by the committees. In this way the transaction of business is greatly facilitated, and the result is probably wiser than if every detail came before the full house.

When, however, some matter of importance upon which there is a diversity of opinion comes



from a committee, the house discusses the subject, the members who are specially interested in that particular question debate it with all the strength of their decided convictions; and then, when the majority has decided the point, the minority yield gracefully, and the law is passed or defeated, as the case may be.

**The Making of a Law.** — Before any bill can become a law it must be presented to one of these two houses, usually reported upon favorably by a committee, passed to a second reading, generally laid over until another day, then being called up it takes its third reading, and if adopted by the requisite vote, is sent to the other house. Here it goes through the same form as before, and on a favorable report from the proper committee it passes to its three readings. If at the third reading it obtains a majority vote, it is ordered to be engrossed and sent to the Governor for his signature. In most states the Governor has a veto over all bills passed by the Legislature. If he signs the bill, thereby indicating his approval of it, it becomes a law, and it is then sent to the Secretary of State to be placed on file for preservation. If the Governor disapproves of the bill he refuses to sign it, or in other words he “vetoes” the bill, and returns it with his objections to the house where it originated. In this



case it must pass the two houses of the Legislature again, and in nearly all the states a two-thirds vote is necessary. If it fails to receive this vote in either house, the bill is killed. In some states a majority vote only is necessary to pass the bill over the Governor's veto.

Each house is the judge of the election and qualifications of its own members, chooses its own officers, and establishes its rules of procedure. In some of the states the House of Representatives only can originate bills looking toward taxation or the expenditure of money.

### SECTION III. — THE EXECUTIVE DEPARTMENT.

**The Governor.** — The chief executive officer of the state is the Governor. It is a common custom to apply to him the title of "His Excellency." In the early history of the states New Hampshire, Pennsylvania, Delaware, and South Carolina called the executive officer the President. All other states from the outset gave him the name of Governor.

In a monarchy the chief executive officer is the monarch himself. In him is the source of power, and other officers are responsible to him. Under a republican form of government, as in the several states, the executive officer holds inferior offi-

cers responsible to him, but he in turn is responsible to the people, who are the source of all political power.

**Term of Office.** — The Governor is elected by the people ; in some states annually, in others for the period of two, three, or four years. The tendency at present seems to be toward biennial elections.

**Qualifications.** — The qualifications necessary for a Governor differ in the different states. The qualifications for a Governor in every state are determined by the constitution of that state. These constitutions commonly agree that to be eligible for the office of Governor a person must have been for a certain number of years a citizen of the United States, and for a term of years immediately preceding his election a resident of the state. He must also be above a certain age, which in most of the states is thirty years.

**Powers and Duties.** — The executive powers and duties of the Governor are important and various. It is his duty to represent the state on public occasions and in its dealings with other states and the United States. He is Commander-in-Chief of the military forces of the state, and has the power to call out the militia of the state in time of insurrection. It is his especial care as the chief executive to see that the laws be faith-

fully executed. He has power to call upon the different executive officers under him for information concerning the condition of affairs in their respective departments. He communicates information of the condition of the state by message to the Legislature when in session, and is accustomed to recommend to that department of the government such measures as he considers necessary and desirable. He usually has the power to call together the Legislature on extraordinary occasions. In most states he has the veto power.

The Governor has certain judicial powers. In most states the power is granted to him by the constitution to reprieve or pardon criminals. To reprieve a criminal is to postpone or delay for a certain time the execution of the sentence which has been already pronounced upon him. To pardon is to free the criminal entirely from the execution of the sentence. A pardon forgives the offence and releases the offender. Most states also give the Governor the power to commute a sentence; that is, to change the penalty or punishment for a less severe one. For instance, when a person has been sentenced to capital punishment, the Governor may commute that sentence to imprisonment for life. In some states the pardoning power is not given to the Governor, but is retained in the hands of the Legislature, or the Senate, or the Governor's Council.

The Governor has also in all states more or less appointing power. He appoints many executive officers and sometimes judicial officers. This power of appointment differs greatly in the different states. In some states he appoints all the principal executive and judicial officers, such as the Secretary of State, the Attorney-General, and the judges of the courts. In other states these officers are elected by the people, and the Governor appoints only officers of a lower grade. In none of the states has he the power to appoint legislative officers. In some states the Governor is intrusted with powers and duties which it is not necessary to mention here. Some states provide for a "Governor's Council," or, as it is sometimes called, an "Executive Council." The members of this council are usually elected by the people, and their duty is to advise the Governor, especially in regard to certain matters definitely stated in the laws.

**Lieutenant-Governor.** — Most of the states have an officer called a Lieutenant-Governor. In one-quarter of the states this office does not exist. Usually he has but few duties. In most of the states which have such an officer he presides in the Senate. The principal reason for having a Lieutenant-Governor is to guard against a vacancy in the office of Governor. Should the

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Governor die, or by any reason be removed or become incompetent to discharge the powers and duties of his office, these would devolve upon the Lieutenant-Governor; but in every instance only in accordance with the constitution of the state.

**Executive Officers.** — The executive officers vary in the different states. In most of them the constitution provides for a secretary of state, an auditor or comptroller, a treasurer, and an attorney-general. Some states have an officer called a surveyor-general, whose duty it is to look after the lands belonging to the state; a superintendent of schools, or superintendent of public instruction, or commissioner of public schools; state printer; a state librarian, and others.

Some states have boards of education whose duty it is to exercise supervision over the normal schools of the state, if there are such; prescribe forms for registers and blank-books for school statistics; to direct or advise the superintendent of public instruction; and to make annual report to the Legislature of the state concerning education within its limits, with recommendations for necessary legislation or appropriations.

Some states have a board of agriculture, a board of health, a board of prison commission-



ers, a board of railroad commissioners, harbor commissioners, insurance commissioners, commissioners of savings banks, and the like.

#### SECTION IV. — THE JUDICIAL DEPARTMENT.

The constitutions of the several states provide for the establishment of courts of justice and carefully define their powers. In some states the judges are appointed, and in others they are elected by the people. The legislative department makes laws, the executive department enforces them, but the judicial department interprets the laws and decides cases of law, making the proper application so as to insure justice to individuals. The names and powers of the different courts differ greatly among the several states. In no two states is the judicial department exactly alike. All that can be done here is to give a tolerably correct idea of the judicial system to be found in most of the states.

**Justices of the Peace.** — In the various towns or counties in the different states officers are chosen, termed Justices of the Peace. The justice will hold a petty court, in which he has the power to try civil cases which involve small amounts. Some states limit this amount to one hundred dollars, and others to fifty dollars. He has also

the power to try persons charged with small crimes. Sometimes he has the power to make a preliminary examination and bind over criminals for trial in the higher courts.

**Police Courts.** — In the cities the lowest order of courts, similar to the justice courts in the towns, is usually termed police courts.

**County Courts.** — In most of the states the courts next above justice courts or police courts, which are organized for the trial of civil cases and of crimes, are held by counties, and are called by various terms, such as district courts, county courts, courts of common pleas, superior courts, etc. Many of the states outside of New England call these courts circuit courts.

**Supreme Court.** — The highest court in the state is usually called the supreme court of such a state. This is usually not a court of original jurisdiction, but only for the trial of cases appealed from the lower courts.

**Probate Courts.** — The term probate court is used in most of the states with a uniform meaning. Usually there is one probate court in every county, which has generally but a single judge. These courts are quite different in character from the courts just described. They are not for the trial of disputes between citizens, nor for the trial of persons charged with crime, but their powers

and duties relate exclusively to the settlement of the estates of deceased persons. They act upon wills, appoint administrators, and empower executors to act in accordance with the wills. When a person dies, leaving property, but not having made a will, it is said that he dies *intestate*. In that case it is the duty of the probate court to appoint administrators, whose duty it is to settle the estate, paying all lawful bills brought against it, and to divide the property among the relatives to whom it would belong by law. Strictly speaking, the administrator has no jurisdiction over the real estate of a person deceased. The lawful heirs can take possession of that without authority from the court.

When a person dies leaving a will, he usually names in that will an executor or executors, whose duty it shall be under the will to dispose of his property in accordance with the provisions of the will. The probate court has power to remove executors or administrators who fail in the discharge of their duty, to settle their accounts, and to decide questions of dispute which may arise in the distribution of the estate. Probate courts are sometimes called orphans' courts, because they have the power to take charge of the estates of minors whose parents have died, and to appoint guardians for them.

Questions of dispute which may arise concerning decisions of probate courts may be appealed to the county courts or the supreme court of the state.

Judges of the various courts are sometimes appointed by the Governor, sometimes by the Legislature, and sometimes elected by the people. Their terms of office differ in the different states. Frequently the term is from six to ten years. Justices of the peace are usually elected for one or two years. It is common in the New England States for the judges of the higher courts to hold office for life. All the officers under the judicial department, as well as those in the legislative and executive departments, receive salaries which are fixed by state laws.

There are many other matters of various kinds relating to the state governments, which might be considered with propriety here, but which may better be omitted, especially for the reason that most of them will be fully explained, and better understood under the department of our national government. The subordination of the parts to the whole, of the inferior to the superior, must be kept in mind. The town and the county are portions of the state, are inferior to the state, and are subject to its power and its law, but only so subject in matters over which the state by the

constitution has authority vested in it. So in like manner it must be remembered that the states are parts of the nation, and as such are in subordination to the national authority, but only in such matters as the nation has power given to it by its constitution.

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QUESTIONS, TOPICS, AND SUGGESTIONS FOR  
REVIEW.

Designed to recall what has been learned and to suggest further thought, reading, and study.

1. What was the Declaration of Independence?
2. How did the colonies become states?
3. Write a paper of one hundred words or more, describing the legislative department of a state.
4. Difference between the "House" and the "Senate."
5. Describe how a law is made.
6. Duties of the Governor.
7. Is a Lieutenant-Governor like a "fifth wheel to a coach"?
8. What executive officers are there in the states?
9. Justice Courts.
10. Police Courts.
11. County Courts.
12. Supreme Courts.
13. Probate Courts.
14. What is meant by intestate?
15. What is meant by executor?
16. What is meant by administrator?
17. State Judges — how appointed or elected?



## BLACKBOARD OUTLINE.



### SETTLEMENTS.

- |             |  |             |
|-------------|--|-------------|
| 1. Spanish. |  | 2. French.  |
|             |  | 3. English. |

### COLONIAL AND REVOLUTIONARY HISTORY.

- |   |  |                                 |
|---|--|---------------------------------|
| 1. The Supreme Moment in<br>the History of America. |  | 3. Second Continental Congress. |
| 2. First Continental Congress.                      |  | 4. Articles of Confederation.   |
|   |  | 5. Plan of the Confederation.   |
|   |  | 6. The Federal Convention.      |

## CHAPTER IV.

### COLONIAL AND REVOLUTIONARY HISTORY.

#### SECTION I.

##### **The Contest of the Kings for North America.**

— After the discovery of America by Columbus Spain claimed the right to the new world. It was not long, however, before Great Britain, France, and other nations sent over vessels on exploring expeditions, each claiming the right to the country along whose coast they sailed. A little later settlements were attempted here and there from Quebec to St. Augustine, in Mexico, Central and South America.

**Spanish Settlements.**— Spain made the first permanent settlement in what is now the United States, at St. Augustine, Florida, in 1565. Spain at an early date took possession of Mexico, Central America, and a large part of the Atlantic coast of South America. So it came to pass that the Spanish Provinces were all further south than the country which at a later date became the United States of America.

**French Settlements.** — The French people are entitled to great praise for their early explorations and settlements in North America, and for the devoted efforts of French priests to instruct and Christianize the North American Indians. Father Marquette, Chevalier De La Salle, Joliet, and many others penetrated into the wilderness, traced the course of the principal rivers, navigated the Great Lakes, and explored the entire valley of the St. Lawrence and the Great Basin of the Mississippi.

They had possession of what is now the British Provinces at the north of us, and of the entire country between the Alleghanies and the Rocky Mountains.

**English Settlements.** — Great Britain was at an early date very active in sending out expeditions for discovery and explorations. The Cabots, Sir Francis Drake, Sir Humphrey Gilbert, Capt. John Smith, Gosnold, and others sailed along the Atlantic coast, taking possession of the country in the name of the king of Great Britain. Settlements were effected at Jamestown, Plymouth, Salem, Boston, Hartford, New Haven, and later still Philadelphia, and along the coast of the Carolinas and Georgia.

**The Contest for Supremacy.** — Thus it happened that these three great European nations,

to say nothing of Portugal, Holland, Sweden, and other minor powers, had before the middle of the last century planted flourishing settlements and organized governments for prosperous colonies along the coast and in the interior from Quebec to the Isthmus of Darien.

If the map of North America were made in three colors, showing the several parts of this continent held by these three great powers from 1740 to 1750, the lines would be somewhat as follows: The green color, which might represent Spain, would cover Florida, Mexico, and Central America. The yellow shade, representing France, would include all of the present British America and the entire valley of the Mississippi River. The red, which we will have represent the British power, will cover only the few feeble colonies along the coast from Maine to Florida, and extending westward to the Alleghany Mountains.

## SECTION II. — THE CONTEST ENDED.

**The Supreme Moment in the History of America.** — In the year 1754 hostilities broke out between the English colonies in North America and the French. During several years preceding this date the French had established a line of posts along the Ohio River and near the Alle-

ghany Mountains, intending to prevent the English from extending themselves beyond the mountains to the westward. Washington, at the head of troops from Virginia, was sent to dislodge the French from Fort Duquesne. In the next year, 1755, occurred the defeat of General Braddock near this fort. In 1756 Lord Loudon was sent to command the British troops in America. The contest went on with the battle of Louisburg, Fort William and Henry, and the capture of Fort Frontenac. The English were defeated at Fort Ticonderoga, and fought other battles, until General Wolfe was sent by the British to take Quebec, and there defeated the French army under Montcalm.

**The Battle of Quebec.** — During the night the British forces climbed the steep precipice from the river up to the “Plains of Abraham.” A fierce battle ensued. It was the turning-point in the history of America. If the French should be able to compel the forces to retreat, France might reasonably expect to hold permanent possession of both the French and the English colonies of North America. If, on the other hand, the English should capture the city of Quebec, France would be beaten, and she would be obliged to surrender her vast possessions in this new world to Great Britain. The English were successful. Wolfe



and Montcalm were both killed. Montcalm, when dying, said, "I am happy that I shall not live to see the surrender of Quebec." Wolfe, after receiving his mortal wound, being told that the French were fleeing everywhere, said, "Now God be praised! I die in peace." This was in the year 1760, and soon after the English completed the capture of Canada.

Had the French succeeded in this contest, the English colonies would have been obliged to surrender themselves to the domination of France. The French language, French customs, French laws, would have controlled America; but, on the other hand, as the English were victorious, France was swept from the continent of America, and not till the beginning of the present century did she again secure any foothold here. The treaty of 1763 between England and France was a great triumph for the English-speaking race.

One historian says, "England, proudly imperious, drunk with success, dictated humiliating terms to France, and robbed her of all her possessions in North America." Great Britain took possession of the entire valley of the St. Lawrence,—which carried with it all the country which we now know as British America,—and all the territory east of the Mississippi River. France was permitted to cede to Spain the terri-

tory west of the Mississippi River, lying between that river and the Rocky Mountains, which was known as the "Province of Louisiana." This may well be called the supreme moment in the history of North America. From this time onward it was manifest that England and the English-speaking people must dominate this country. Count De Vergennes, a distinguished French statesman, was at that time the French minister at Constantinople. As soon as he heard what the English demands had been, and that the French had lost all in North America, he said, "The English have overshot the mark. Their next step will be to tax their American colonies to help defray the expenses of this war. The Americans, then no longer needing the protection of England, will refuse to pay the tax, and strike off all dependence upon the mother country." This was in 1763. How true his prophecy was will readily appear when we observe that the Declaration of Independence was passed only thirteen years later. The British did tax the colonies, the colonies did refuse to pay the tax, and, the French power being entirely swept away, and the Spanish being far off beyond the Mississippi, they no longer feared any foreign nation, so that their own independence was only a question of time. The Stamp Act alienated the Americans,

the tax on tea exasperated them; hostilities were commenced, the Declaration of Independence was put forth, the war ensued, and the thirteen British colonies became an independent republic.

The surrender of Cornwallis upon the plains of Yorktown occasioned the resignation of Lord North, and an entire change in the British ministry. Yet it was more than a year before terms of peace could be agreed upon, and two years before the definitive treaty was signed.

**The First Continental Congress.** — Sept. 5, 1774, on the recommendation of Massachusetts, a Continental Congress consisting of delegates from twelve colonies assembled in Philadelphia. The youngest colony, Georgia, was not represented. This gathering came to be known as the First Continental Congress. Many distinguished men were members of it, such as John Adams and Samuel Adams of Massachusetts, Roger Sherman of Connecticut, John Jay of New York, Peyton Randolph, Richard Henry Lee, Patrick Henry, and George Washington of Virginia. Peyton Randolph was chosen president. The Congress adopted the following resolution: “That in determining questions in this Congress, each colony or province shall have one vote; the Congress not being possessed of, or at present able to procure, proper materials to ascertain the importance of each colony.”

The adoption of this rule proved to be a matter of great importance subsequently, inasmuch as it continued in force through the entire Revolutionary War, and until the Federal Constitution went into effect in 1789.

The Congress drew up four papers, — an address to the king, another to the people of Great Britain, a third to the inhabitants of the colonies, and a fourth to the people of the province of Canada. They recommended that another Congress be called for the tenth of the following May, in case the grievances complained of were not previously redressed. No good results were obtained from these addresses to Great Britain, although several British statesmen, including Lord Chatham, spoke of them in terms of highest admiration.

### SECTION III. — THE REVOLUTION.

**Second Continental Congress.** — In accordance with the vote of the First Congress, the Second Continental Congress assembled at Philadelphia on the 10th of May, 1775. This Congress continued in session until March, 1781, and after that date it had annual sessions till the Federal Constitution went into effect in 1789. This Second Continental Congress was in reality the national government through the Revolu-





THE STATE HOUSE, PHILADELPHIA, WHERE THE FEDERAL CONVENTION WAS HELD.

(REPRODUCED FROM AN OLD PRINT OF ONE HUNDRED YEARS AGO.)





tionary War. It appointed Washington as commander-in-chief of the army of the United Colonies; it adopted the Declaration of Independence; it assumed the power to carry forward all necessary measures for the defence of the country; it created a continental currency; it issued bills of credit; it established a treasury department and a general system of post-offices. It recommended that the several colonies should establish for themselves such forms of government as promised best to secure good order during the continuance of the controversy with Great Britain.

**Articles of Confederation.** — No sooner had independence been determined upon than it became obvious that the states would need some written articles which should bind them together and give proper authority to the Congress. A committee was therefore appointed to prepare "Articles of Confederation." These Articles were agreed upon by Congress on the 15th of November, 1777. They were to go into operation when ratified by all the states. Eleven states ratified them in the year 1778, Delaware in 1779, and Maryland March 1, 1781, at which time they went into effect. But this was nearly five years after the Declaration of Independence. During all this time the Continental Congress constituted the national government, and had made the treaty

between the United States and France. The Articles of Confederation made but little difference in the management of affairs. The Continental Congress went right on with its work in the same order as before, and about six months later the surrender of Cornwallis virtually closed the war. Prior to the adoption of these Articles the government had been revolutionary, the Congress governing by common consent of the people of the states. These Articles were the first attempt to draw the line between the powers of the national government and those to be exercised by the states severally. The tendency for state supremacy was strong. The colonies had been heretofore independent of each other, with only one common bond,—the common subjection to the mother country. It was the central government of Great Britain which had made arbitrary demands upon their rights and liberties. They were naturally timid of authority and fearful of centralized power. The Articles were therefore drawn up with the intention of leaving the largest possible powers with the several states, and of giving to the National Congress just as little power and authority as possible. They were “as erroneous in theory as they were inefficient in practice.” The object aimed at by them was to confederate the several states together for general

purposes of mutual assistance, especially in matters of protection against foreign foes.

**Plan of the Confederation.** — The Articles provided for one house of Congress composed of delegates from the several states. Each state was to pay its own delegates, and the voting on all questions was to be by states.

Matters of war and peace, treaties and alliances, were left with the Congress. This body could decide disputes between states, had charge of all postal matters, and power to regulate the value of money; but an affirmative vote of two-thirds of all the states was necessary for any important action to be taken. There was no executive department and no judiciary. Congress could apportion taxes among the states, but had no power to collect them. Each state could lay duties and imposts. Congress had not even power to enforce its own laws. It could borrow money, but could make no provision for its payment. It could appoint ambassadors, but could not defray the necessary expenses. It could declare war, but could not raise a single soldier. "In short, it could declare everything, but do nothing." The Congress ratified the treaty of peace between the United States and Great Britain, but this treaty was violated by the states, and Congress was powerless to prevent such violations.

The Confederation was merely a league between the states, embodying the greatest weakness when considered as a national government. Washington at an early day saw the difficulty and danger, and that a new constitution was the great problem of the time. Alexander Hamilton, one of the ablest statesmen of that day, as early as 1780 sketched the outline of a system of government which he thought to be necessary, and which embodied most of the essential features of our present constitution.

**Federal Convention.** — It had become entirely evident both to Congress and the people that the Confederation as a government was a failure. The states were issuing more and more paper money. Congress repudiated the national debt, and the states repudiated their debts. The country was rapidly becoming bankrupt. There were but few manufacturing establishments in America, and the coin of the country was constantly transferred to England in payment for vast quantities of manufactured goods sent over from that country to this. The several states were stripped of money. The credit of the states and of the Congress was gone, and the absolute collapse of the United States government was imminent.

Washington wrote to a member of Congress, "You talk, my good sir, of employing influence



to appease the present tumults in Massachusetts. Influence is not government. Let us have a government by which our lives, liberties, and properties will be secure, or let us know the worst at once."

Delegates from five states met in January, 1786, at Annapolis, Maryland, with reference to a uniform system of commercial regulations. They reported to Congress their unanimous conviction that a general convention of delegates from the several states should be called to take such action as would render "the Constitution of the Federal Government adequate to the exigencies of the Union." On the 21st of February, 1787, Congress adopted the following resolution: —

"RESOLVED, That, in the opinion of Congress, it is expedient that, on the second Monday in May next, a convention of delegates, who shall have been appointed by the several States, be held at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress and confirmed by the States, render the Federal Constitution adequate to the exigencies of government and the preservation of the Union."

Delegates from all the states except Rhode

Island met at Philadelphia, Monday, May 14th, 1787. On the 25th, George Washington was unanimously elected President of the Convention. This Convention was without doubt the most celebrated gathering of able men ever seen in America.

Among the thirty-nine members of the Convention who subscribed their names to the Constitution, five, viz., Sherman, Franklin, Robert Morris, Read, and Washington, were signers of the Declaration of Independence; Washington and Madison were afterwards Presidents; Rutledge and Ellsworth became Chief Justices; Gerry was Vice-President, and Hamilton, Secretary of the Treasury; Livingston had been eleven times elected governor of his state; Wilson was famed in four universities and was esteemed the greatest constitutional lawyer of the Convention; and Dr. Franklin, then more than eighty years of age and very near the grave, rounded out his full life as a philosopher, statesman, diplomatist, by giving to his country at this her most critical period the great benefit of his own political experience. All of these men had been "identified with the heroic and wise councils of the Revolution."

The Convention had been called "for the sole and express purpose of revising the Articles of

Confederation.” It soon, however, became evident that the only way of rendering this instrument “adequate to the exigencies of government and the preservation of the Union ” was to throw it entirely away and frame a completely new document. At the very beginning of their discussions great differences of opinion were manifest. The members were generally divided into two classes, one favoring a strong national government, and the other opposed to anything which would tend to weaken state sovereignty or impair in any degree what they considered as state rights. Here then was the origin of the two great political parties, which have divided the American people from that day to this,—the states rights party and the national or federal party.

But there were other questions of no small difficulty which they were also obliged to meet at the outset: such as the diverse interests and jealousies of large and small states, of free and slave states, of states agricultural and commercial; and should the states have equal power in the national government, or should that power be proportional to the population of the several states.

Washington almost despaired, Franklin was seriously alarmed; but influenced by a spirit of mutual forbearance and concessions, various compromises were proposed and agreed to concerning

slavery, and especially in providing for an equality of the states in the Senate, and representation by population in the House. The present Constitution of the United States was agreed to by the convention, and received the signatures of members from all the participating states. This result was reached only by the most consummate wisdom, the most lofty patriotism, and such a degree of skill and ability as has seldom, if ever, elsewhere been witnessed in any assemblage of men. Washington said, "It appears to me little short of a miracle."

The Constitution was finally agreed to by all the states present on the 15th of September, 1787. This was on Saturday. On the following Monday it was signed by the members, and submitted to the Congress. The votes throughout the whole time of the Convention had been by states, as in the Continental Congress. The Congress transmitted the new Constitution to each state, recommending its ratification. Although the Articles of Confederation provided that no change should be made in them except by a vote of every state, yet the Constitution provided that the new government should go into effect when ratified by conventions of the people of nine states.

For a long time it was uncertain whether the Constitution would be adopted or rejected. Most



of the smaller states were in its favor. Its adoption was closely contested in New York, Massachusetts, and Virginia. In a little less than one year from its adoption by the Convention, it had been ratified by eleven of the states. Congress then took measures to put the new government into operation. Elections of presidential electors, and of senators and representatives in Congress, were held in January, 1789. The presidential electors voted for President on the first Wednesday of February; and the first Wednesday of March was decided upon by Congress as the time when the new Constitution should go into effect.

George Washington was unanimously elected President, and John Adams was elected Vice-President. On the 4th of March the senators and representatives assembled in New York, the new Constitution went into legal operation, and proceedings were commenced under it. It was not, however, until the first day of April that a quorum of members in both houses was obtained, and on that day Congress began the transaction of business. Washington took the oath of office, and delivered his inaugural address, on Thursday, April 30th. On May 1st John Adams took his seat as president of the Senate. North Carolina ratified the Constitution in November, 1789; and Rhode Island, in May, 1790.



**Dates of Ratification.**— The following are the dates of the ratification of the Constitution by each of the thirteen original states:

- (1) Delaware, Dec. 7, 1787.
- (2) Pennsylvania, Dec. 12, 1787.
- (3) New Jersey, Dec. 18, 1787.
- (4) Georgia, Jan. 2, 1788.
- (5) Connecticut, Jan. 9, 1788.
- (6) Massachusetts, Feb. 6, 1788.
- (7) Maryland, April 28, 1788.
- (8) South Carolina, May 23, 1788.
- (9) New Hampshire, June 21, 1788.
- (10) Virginia, June 26, 1788.
- (11) New York, July 26, 1788.
- (12) North Carolina, Nov. 21, 1789.
- (13) Rhode Island, May 29, 1790.

Thus was put into operation the Constitution of the United States of America, which Gladstone, who is considered by many the greatest statesman of this age, has pronounced to be “the most wonderful work ever struck off at a given time by the brain and purpose of man.”

It may truly be said that it embodies profound political wisdom and far-reaching statesmanship, while it jealously guards the rights of the people, providing various checks and safeguards against unjust, unwise, or dangerous legislation; and yet “in its words it is plain and intelligible, and is

meant for the homebred, unsophisticated understandings of our fellow-citizens.”

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QUESTIONS, TOPICS, AND SUGGESTIONS FOR  
REVIEW.

Designed to recall what has been learned and to suggest further thought, reading, and study.

1. What was the “Contest of the Kings”?
2. Where was the first permanent Spanish settlement in the United States?
3. Where the first permanent English settlement?
4. Draw a map of North America, showing Spanish, French, and English control at the middle of the eighteenth century.
5. Draw a map showing the English and Spanish territory after 1763.
6. Describe the battle of Quebec.
7. What was the “Supreme Moment in American History,” and why so called?
8. First Continental Congress.
9. What important rule did it adopt?
10. When did the Second Continental Congress convene?
11. Name the essential points of weakness in the Articles of Confederation.
12. Describe the Federal Convention.
13. When did the Convention submit the Constitution to Congress?
14. When did the Constitution go into effect?

## BLACKBOARD OUTLINE.



### THE LEGISLATIVE DEPARTMENT.—THE CONGRESS.

#### THE HOUSE OF REPRESENTATIVES.

The Number of Representatives.	Territorial Delegates.
Qualifications.	Officers.
Impeachments.	

#### THE SENATE.

Senators, how chosen.	Presiding Officer.
Qualifications.	Officers of the Senate.
The Trial of Impeachments.	

#### PROVISIONS RELATING TO BOTH HOUSES.

Sessions of Congress.  
Salaries of Senators and Representatives.

#### THE POWERS OF CONGRESS.

Duties on Imports.	Coin Money.
Naturalization.	Weights and Measures.
Bankruptcies.	The "Sweeping Clause."

#### RESTRICTIONS UPON THE NATIONAL GOVERNMENT.

## *PART SECOND.*

### THE NATIONAL GOVERNMENT.



#### CHAPTER I.

##### THE LEGISLATIVE DEPARTMENT.

##### SECTION I. — THE CONGRESS.

**The Preamble.** — The purpose of the Constitution of the United States is fully stated in the preamble. It is as follows: —

1. To form a more perfect union.
2. To establish justice.
3. To insure domestic tranquillity.
4. To provide for the common defence.
5. To promote the general welfare.
6. To secure the blessings of liberty to ourselves and our posterity.

**The National Element of Slow Growth.** — The beginning of the nation was July 4th, 1776. During the Revolution and under the Articles of Confederation, great diversities prevailed among the people as to the proper limits of state rights and the proper extent of the Federal power. The weakness of the Articles of Confederation

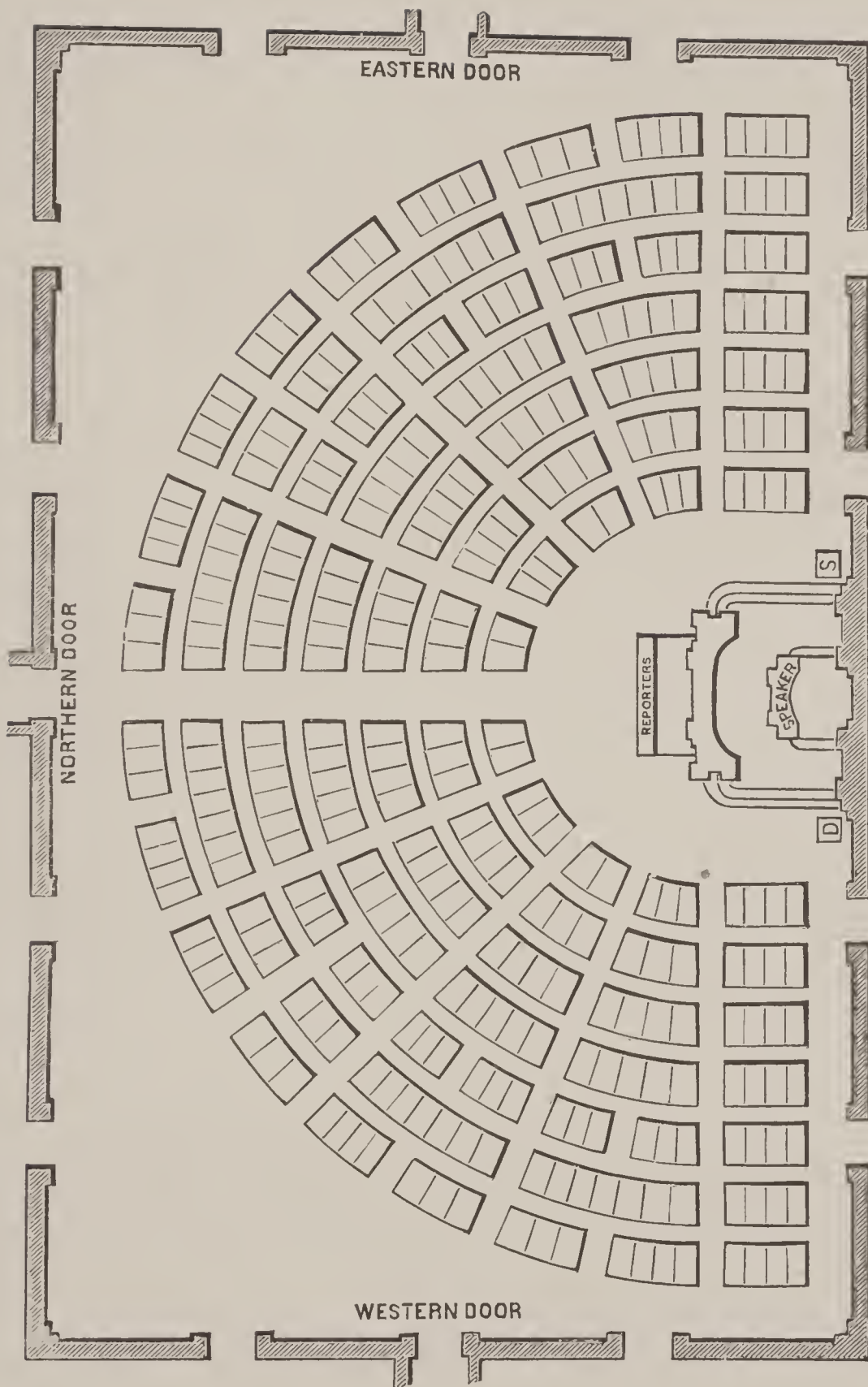
rendered it very clear that the national government must have conferred upon it more extended powers. The Constitution was a compromise in many respects between divergent parties, but on the question of national supremacy there was no compromise. The Articles of Confederation constituted an agreement or bond between the several states which were specified by name. The Constitution, on the other hand, was not a league of states, but a fundamental law adopted by the people of the whole country. Its first sentence, called the preamble, is especially significant: —

“We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”

## SECTION II. — THE HOUSE OF REPRESENTATIVES.

By the Constitution all legislative powers for the national government are vested in a Congress of the United States, which consists of two houses, the Senate and the House of Representatives. As has already been stated, the people were influenced largely in organizing their new government by the plans and methods which they





THE HALL OF THE HOUSE OF REPRESENTATIVES, WASHINGTON.



had been familiar with in the mother country. Hence it was simply natural that following the example of the British Parliament, which consisted of the House of Lords and the House of Commons, two separate houses should here be provided for.

During the revolutionary government and under the Articles of Confederation, the Continental Congress had consisted of but one house. The states, however, in forming constitutions for themselves had, without exception, introduced the plan of two houses.

### **The House of Representatives. —**

“The House of Representatives shall be composed of members chosen every second year by the people of the several states.”

Under the Confederation the members of Congress were chosen annually, and in such manner as the legislature of each state should authorize. The Constitution provides that representatives shall serve for two years, and that they shall be elected by “the people.” Each state prescribes by law how the members of the state legislature shall be elected, and who shall have power to vote for such members. The Constitution prescribes that any one who can vote for a member of the House of Representatives in that state, can vote for a member of the National House of Representatives.

**Qualifications.** — Three qualifications, and only three, are required for a representative in Congress.

1. He must be at least twenty-five years of age.
2. He must have been seven years a citizen of the United States.
3. He must, when elected, be an inhabitant of that state in which he shall be chosen.

**The Number of Representatives.** — Every ten years after the census returns have been made, Congress provides by law for the number of representatives for the next ten years which each state shall be entitled to. It first determines how many members there shall be in the House, and it then apportions these members according to the population of the several states. The number of representatives for the different decades and the number of inhabitants for one representative during the last one hundred years have been as follows: —

Period.	No. of Members.	Ratio of Population.
1789-1793	65	—
1793-1803	105	33,000
1803-1813	141	33,000
1813-1823	181	35,000
1823-1833	212	40,000
1833-1843	240	47,700
1843-1853	223	70,680
1853-1863	234	93,500
1863-1873	241	127,941
1873-1883	292	130,533
1883-1893	325	151,911
1893-1903	356	173,902

Sometimes the actual number of representatives has been greater than the number here given on account of the admission of new states. By the above table, it will be observed that at the present time the required number of inhabitants for one representative is 173,902, but every small state is entitled to one representative even if its population is less than the above number.

**Territorial Delegates.** — Each organized territory is allowed by law of Congress to send one delegate to the House. He may participate in the discussions, but he is not allowed to vote.

In the fifty-first Congress (1890), Washington, Montana, Dakota, Idaho, and Wyoming having been admitted as states, and Oklahoma organized as a territory, there were four territorial delegates.

**Officers.** —

“The House of Representatives shall choose their Speaker and other officers.”

The Speaker is the presiding officer of the House. The Speaker is chosen from the members of the House and can vote on every question like any other member. The other officers of the House are: —

1. Clerk.
2. Sergeant-at-arms.
3. Door-keeper.
4. Postmaster.
5. Chaplain.



At the organization of each new Congress, the clerk of the preceding House presides till a Speaker is chosen.

**Impeachment.** — The House of Representatives has the sole power to impeach civil officers of the United States. When an officer is impeached, the House brings impeachment, specifying the charges against him, before the Senate. The method of impeachment is as follows: the House appoints a committee to inquire into the conduct of the officer who has been charged with improper acts. If this committee reports in favor of impeachment, the House votes upon the question. If the majority vote that the officer shall be impeached, articles are prepared specifying the charges, and action is taken upon each article. Then a committee is appointed to conduct the prosecution before the Senate. It is noticeable that but few officers have ever been subject to impeachment. Indeed, in one hundred years but seven cases of impeachment have occurred. They are as follows: —

1. William Blount, Senator. 1799. Acquitted.
2. John Pickering, Judge. 1803. Convicted and removed from office.
3. Samuel Chase, Judge. 1804. Acquitted.
4. James H. Peck, Judge. 1830. Acquitted.
5. West H. Humphreys, Judge. 1862. Convicted

- and disqualified from holding any office of honor, trust, or profit under the United States.
6. Andrew Johnson, President. 1868. Acquitted.
  7. W. W. Belknap, Secretary of War. 1876. Acquitted.

Thus it will be seen that of these seven cases of impeachment there have been only two convictions, one of whom was simply removed from office, and the other was disqualified from holding office.

### SECTION III. — THE SENATE.

The Senate consists of two members from each state. The peculiar composition of the Senate was occasioned by the natural jealousy which existed between the states. It has already been seen that the several colonies became states, preserving their original boundaries. During the entire time of the Continental Congress all votes were taken by states, each state having but one vote. When the convention was framing the Constitution, the jealousy between the small states and the larger was strongly apparent. The larger states very naturally felt that they should have a stronger voice in legislative matters than the smaller states. On the other hand, the smaller states were unwilling to yield the equal power which had hitherto been accorded to them.

A compromise was effected by which the House of Representatives should be constituted upon a basis of population, and in the Senate the equality of the states should be retained. The Constitution provides that, —

“The Senate of the United States shall be composed of two senators from each state, chosen by the legislature thereto for six years; and each senator shall have one vote.”

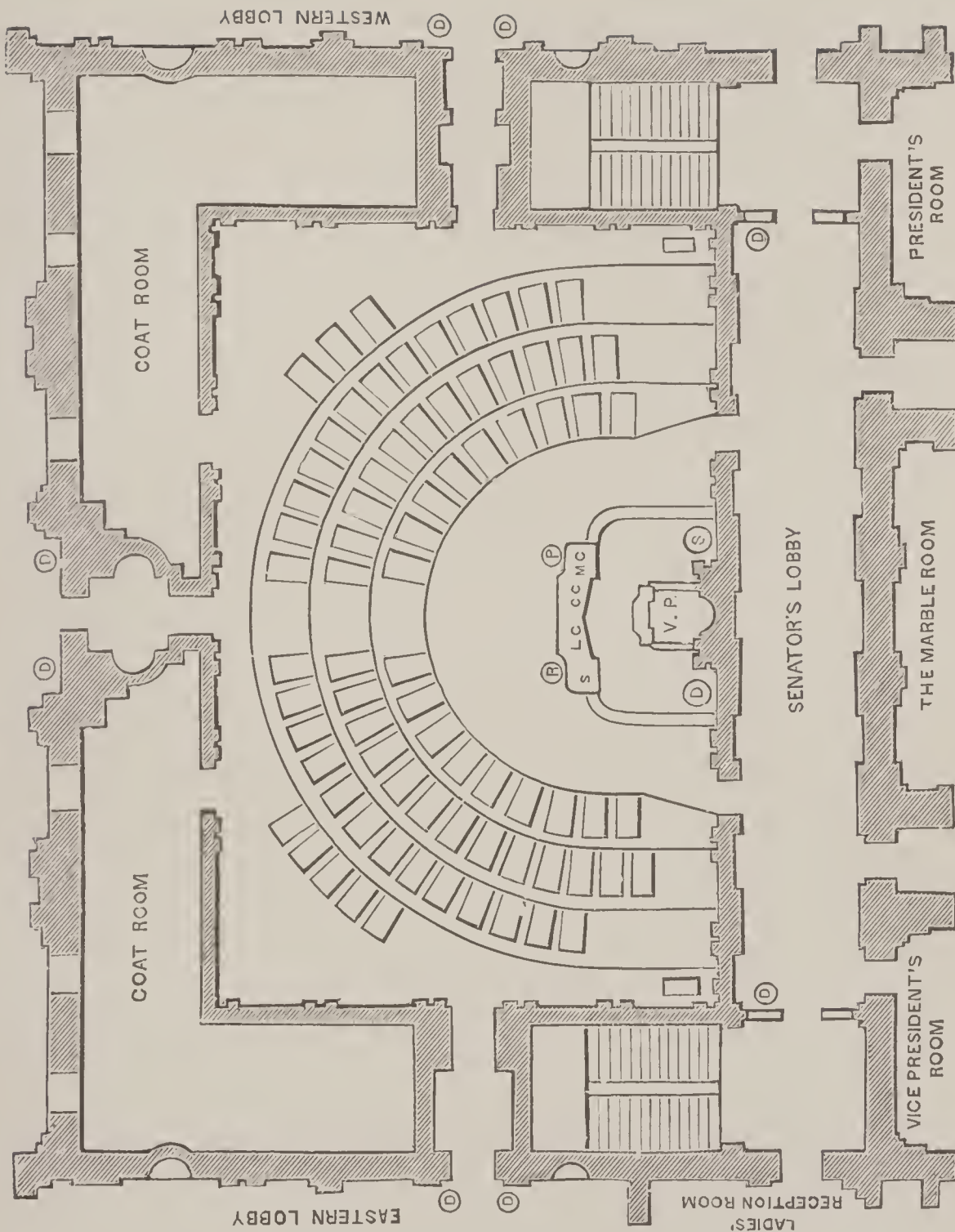
This clause contains four distinct provisions: —

1. There shall be two senators from each state.
2. They shall be chosen by the legislature of the state.
3. They shall be chosen for the term of six years
4. Each senator shall have one vote.

**Senators: how chosen.** — In regard to the mode in which the legislatures are to choose the senators, the Constitution is silent.

By an act of Congress passed July 25, 1866, it is provided that when the legislature of any state is to elect a senator in Congress, it shall proceed to the election of such senator on the second Tuesday after the organization of the legislature, and the election shall be conducted as follows: —

Each house shall, by a *viva voce* vote, name a person for senator, and the name of the person who receives a majority vote shall be entered in



THE SENATE CHAMBER, WASHINGTON.





the journal of the house. If the house fails to give such a majority to any person, that fact shall be entered on the journal. On the next day at twelve o'clock the members of the two houses shall convene in joint assembly, and the journal of each house shall be read, and if the same person has received a majority of all the votes in each house, he shall be declared fully elected senator. If no one has such a majority, the joint assembly shall choose, by a *viva voce* vote of each member present, a person for senator. The person having a majority of all the votes of the joint assembly shall be declared elected. If there is no election that day, the joint assembly shall meet at twelve o'clock on each succeeding day, and shall take at least one vote each day until a senator is elected.

The senators are divided into three classes, and, as they are chosen for six years, one-third of the whole number is chosen every second year. The representatives are chosen for two years, which is the length of time covered by one Congress. Whenever a new Congress convenes, one-third of the senators are either new members, or have been re-elected for a new term. It will be observed, that as one-third of the senators go out of office every two years, the Senate is a continuous body; while the members of the

House are all swept off at once, and a new election brings in a new House every second year.

**Qualifications.** — The qualifications of the senator are three: —

1. He must be at least thirty years of age.
2. He must have been nine years a citizen of the United States.
3. He must, when elected, be an inhabitant of the state in which he is chosen.

**Presiding Officer.** — It will be seen farther on, that the executive officer of the United States is the President. The Vice-President is chosen for the purpose of taking the place of the President when a vacancy in that office occurs; but unless some other duties were placed upon him, the Vice-President would have nothing to do so long as the President held his office; hence the convention determined to make him presiding officer of the Senate, which is done in the following clause: —

“The Vice-President of the United States shall be president of the Senate, but shall have no vote unless they be equally divided.”

The speaker of the House is a member of the House; but as the equality of the states is preserved in the Senate, it would seem best to select the presiding officer from outside that body.

The Vice-President would be likely to be less partial as a presiding officer than a senator would be, since he is elected by the whole country and not by a single state.

**Officers of the Senate.**— The Senate shall choose their officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States. The officers of the Senate are :—

- |                     |                      |
|---------------------|----------------------|
| 1. The Secretary.   | 4. Sergeant-at-arms. |
| 2. Chief Clerk.     | 5. Door-keeper.      |
| 3. Executive Clerk. | 6. Chaplain.         |

**The Trial of Impeachments.**— When the Senate is to try an impeachment, it sits as a court, and every senator must be on oath or affirmation.

“When the President of the United States is tried the chief-justice shall preside, and no person shall be convicted without the concurrence of two-thirds of the members present.

“Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.”

SECTION IV.—PROVISIONS RELATING TO BOTH  
HOUSES OF CONGRESS.

**Sessions of Congress. —**

“The Congress shall assemble at least once in every year and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.”

Although the new Congress comes into existence on the fourth of March in each odd year, yet the first regular session will begin on the first Monday of December following. This first session may hold through an entire year, but if the business be completed Congress may adjourn at any time during the year. The second regular session begins on the first Monday of December following, and must close by the fourth of the next March, at which time the new Congress comes into existence.

“Each house is the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business.”

Each house also determines, —

“The rules of its proceedings, punishes its members for disorderly behavior and with the concurrence of two-thirds may expel a member.”

**Salary of Senators and Representatives. —**

The senators and representatives are paid out of the treasury of the United States. Congress has, from time to time, increased the compensation of its members from six dollars a day in the House, and seven dollars a day in the Senate, until, by a law passed in 1874, the compensation of each representative and each senator was fixed at five thousand dollars per annum. The pay of the Speaker of the House and of the Vice-President, or if there is none, the President of the Senate *pro tempore*, is eight thousand dollars per annum. In addition to his salary every member of either house is allowed mileage, in coming and going between his home and Congress, twenty cents per mile for every mile of travel by the usual route.

“All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.”

This clause is adopted from the custom of the British Parliament. There, revenue bills must originate in the House of Commons. There is very little necessity in our present circumstances for this restriction. Raising revenue is understood to be confined to levying taxes. It is the custom for the Senate to originate bills which



imply the raising of money, or which will require the raising of money, as for example, bills to establish post-offices, the mint, to regulate the sale of public land, etc.

SECTION V. — THE POWERS OF CONGRESS.

We come now to the consideration of the powers vested by the Constitution in the Congress. It should be remembered that when the Constitution was framed, the controversy was sharp and spirited between those who favored bestowing large powers upon the national government, and those who, fearing that evils would result from such a course, were strenuous in their belief that large powers should be retained by the governments and the people of the several states. In consequence of this controversy, the Constitution defines somewhat minutely special subjects upon which Congress shall have power to legislate. It does not, however, contain an exhaustive enumeration of the powers of Congress, and does not mean that Congress shall not legislate on any subjects not here enumerated. This is evident from the fact that power is given to Congress

“To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in

the government of the United States, or in any department, or officer thereof.”

Elsewhere, the Constitution requires of Congress the exercise of powers not particularly mentioned; and in different places it implies that Congress must do certain things, which are not expressly provided for in the section specifying its particular powers.

The Constitution expressly enumerates the following powers:—

The Congress has power

“To lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.”

This gives to Congress the power to levy taxes for three purposes:—

1. To pay the public debt.
2. To provide for the common defence.
3. To provide for the general welfare.

The general government may levy a tax in three ways:—

1. A direct tax upon persons, which may be either a poll tax or a property tax.
2. An indirect tax upon goods imported into the country from abroad.

3. An indirect tax upon goods manufactured and used here.

Previous to the civil war a direct tax had been laid but four times — in 1798, 1813, 1815, 1816. These taxes were levied upon lands, houses, and slaves. To pay the debt incurred in the civil war, direct taxes were again levied in 1861 and subsequently.

**Duties on Imports.** — This government, during most of its existence, has been committed to the policy of laying duties on goods manufactured abroad and imported into this country. These duties on imports are of two kinds: —

1. Specific duties.
2. *Ad valorem* duties.

A specific duty is a tax levied on goods by weight, measure, or bulk; as, for example, a duty of fifty cents a yard on broadcloth, one dollar a ton on iron, or twenty cents a gallon on molasses.

An *ad valorem* duty is levied according to the value or cost of the goods, as, ten per cent on iron, fifty per cent on the cost of brandy. These duties are collected under the direction of the treasury department.

**Naturalization.** — Another power committed to Congress is, “to establish a uniform rule of naturalization.”

Naturalization is an act by which a foreigner, called an alien, becomes a citizen of the United States. Under the confederation, each state passed laws naturalizing aliens.

It is to be noticed that there has been a constant growth of national power. At first the several states were unwilling to give up their power to the federal government. Through the whole history of the nation, the dividing line between political parties has been upon this principle. One party has favored large state rights, and a minimum national power. The other party has advocated a strong national power. Here is an illustration: The laws upon the subject of naturalization, and the qualifications requisite in the different states were so various, that confusion and controversy resulted. To remedy these evils the Constitution gives Congress full power over the subject of naturalization, so that the laws shall be uniform throughout all the states. An alien coming to this country from a foreign land must make application for citizenship; this is called his "declaration of intention." This declaration must be made at least two years before he can receive his naturalization papers. In this declaration he must declare on oath or affirmation that it is his intention to become a citizen of the United States, and to renounce all allegiance

to the government of which he is at the time or has been a subject.

Before he can receive his naturalization papers he must have resided in this country at least five years. There is one exception to this law. By an act passed in 1862, a soldier of the age of twenty-one years and upward, regularly discharged from the army of the United States, may be admitted to citizenship without a previous declaration of intention and with a single year's residence. The children of a naturalized foreigner, who are under twenty-one years of age, residing in this country at the time the father received his naturalization papers, are considered citizens. The children of a citizen, who are born abroad, are citizens of the United States.

When foreign territory has been incorporated into the Union, by treaty or otherwise, Congress has exercised the power of granting naturalization without previous residence. When territory is annexed to this country, the President and Senate have naturalized the inhabitants of such territory *en masse*.

**Bankruptcies.** — The Congress also has power to make “uniform laws on the subject of bankruptcies throughout the United States.”

In England, the term *bankrupt* is generally limited to traders who fail to pay their debts,



while the word *insolvent* was applied to those not paying their debts who were not engaged in trade. The general usage, however, in the United States, has been to make the words *bankrupt* and *insolvent* synonymous. In reality, a person is insolvent when he cannot pay his debts. He becomes a bankrupt by legal proceedings under a bankrupt law. Congress has exercised this power to pass uniform laws on bankruptcies at three different times. The first bankrupt law was passed in 1800, and repealed three years later. The second was passed in 1841, and repealed within two years. The third was in effect from 1867 to 1878. No national bankrupt laws are in force now. It is held that if Congress does not exercise its power to pass a bankrupt law, the several states can do so. The state laws are usually termed insolvent laws.

**Coin Money.** — The Congress has power, —

“To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.”

An Act of Congress passed in 1873 provided for the following coins: —

1. Gold: The dollar piece; the two-dollar-and-a-half piece, or quarter-eagle; the three-dollar piece; the five-dollar piece, or half-eagle; the ten-dollar piece, or eagle; and the twenty-dollar piece, or double-eagle.

2. Silver: The dollar, half-dollar, quarter-dollar, and dime.

3. The "minor coins" are the five-cent piece and three-cent piece and one-cent piece. Two-cent pieces are not now coined.

**Weights and Measures.** — This clause gives to Congress power "to fix the standard of weights and measures." It is proper that the standard of weights and measures should be connected with money. The price or value of any commodity is fixed in money terms; but this commodity is either weighed or measured, and, therefore, the power which coins the money should fix the standard of weights and measures. Our weights and our measures have come to us through the ancient usages of Great Britain. It appears strange that the world should not have earlier established a uniform system. That *twelve* inches should make a foot, and *three* feet a yard, and that *five and a half* of this denomination should make a rod, and that *forty* of this is called a furlong, and that *eight* furlongs are a mile, is not complimentary to the civilization of our ancestors.

We made a great gain when this government established our coins on the decimal system: ten cents make a dime, and ten dimes a dollar, and ten dollars an eagle. It will be a greater gain

when the metric system for all weights and measures shall have come into universal use. The metric system has been legalized by an act of Congress; but it is to be feared that the day is somewhat distant when it shall have come into general use in this country.

**Various Powers.** — Congress has power, —

“To provide for the punishment of counterfeiting the securities and current coin of the United States.

“To establish post-offices and post-roads.”

Congress has power to grant copy rights to authors and patent rights to inventors.

“To define and punish piracies and felonies committed on the high seas, and offences against the law of nations.

“To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

“To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years.

“To make rules for the government and regulation of the land and naval forces.”

**“The Sweeping Clause.”** — The final clause, enumerating the powers conferred by the Constitution upon Congress, reads as follows: —

“To make all laws which shall be necessary and proper for carrying into execution the foregoing powers,

and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.”

This clause is what Patrick Henry called “the sweeping clause,” by which, as he thought, Congress was to overthrow the states. Great opposition to this clause was manifested by the state-rights party during the time in which the Constitution was under discussion by the people and by state conventions prior to its adoption.

Nothing is plainer than that the government has under this Constitution full national powers, and is limited only by the restrictions imposed by the Constitution itself. Judge Story says: “It would be almost impracticable, if it were not useless, to enumerate the various instances in which Congress, in the progress of the government, has made use of incidental and implied means to execute its powers. They are almost infinitely varied in their ramifications and details.”

Chief-Justice Marshall says: “A power vested carries with it all those incidental powers which are necessary to its complete and efficient execution.”

This principle has been acted upon by the general government from 1789 to the present day.

## SECTION VI. — RESTRICTIONS UPON THE NATIONAL GOVERNMENT.

The Constitution provides, that the slave trade could be prohibited by the Congress after the year 1808. At that time a law of Congress went into effect imposing heavy penalties upon persons engaged in the slave trade. In 1820 the slave trade was declared to be “piracy,” to be punished with death.

Since the late civil war, our nation has happily been freed from the incubus of human slavery.

The Constitution expressly prohibits any *ex post facto* law and any bill of attainder.

It is also provided that direct taxes levied by the national government shall be in proportion to the population, and that no title of nobility shall be granted by the United States, and also that “No money shall be drawn from the treasury but in consequence of appropriations made by law.”

## RESTRICTIONS UPON THE STATES.

It may also be stated just here that the Constitution places the following restrictions upon the several states: —

1. No state shall enter into any treaty, alliance, or confederation.



2. Grant letters of marque and reprisal.
3. Coin money.
4. Emit bills of credit.
5. Make anything but gold and silver coin a tender in payment of debts.
6. Pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts.
7. Or grant any title of nobility.

NOTE. — *Who can Vote.* On page 77 it is stated, "Each state prescribes by law how the members of the state legislature shall be elected, and who shall have power to vote for such members."

Every state, either by its Constitution or its statutes, prescribes the limit of suffrage. In general, this limit has heretofore been what is called "manhood suffrage"; *i.e.* every male citizen, twenty-one years old, not a pauper or an idiot, could vote. Within a few years many states have extended the privilege of suffrage to women. The state of Wyoming gives the same political rights to women as to men. In Kansas women have municipal suffrage, and also, in unincorporated towns, the right to vote on the question of liquor licenses. In twenty-three states women have the right (more or less restricted in some states) to hold office in connection with the management of public schools. Twenty states have conferred upon woman power to vote for school officers. In fifteen of these states a woman can both vote upon school questions and hold office. These fifteen states are as follows: Colorado, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Dakota, South Dakota, Idaho, Montana, Vermont, Washington, Wisconsin, Wyoming.

The additional states giving women the right to vote upon school questions are the following: Indiana, Kansas, Kentucky, Nebraska, Oregon.

Those additional where women can hold office are the following: California, Connecticut, Illinois, Iowa, Louisiana, Maine, Pennsylvania, Rhode Island.

QUESTIONS, TOPICS, AND SUGGESTIONS FOR  
REVIEW.

Designed to recall what has been learned and to suggest further thought, reading, and study.

1. What are the purposes of the Constitution?
2. Describe the growth of the national element.
3. What advantages from having two houses of Congress?
4. How are the representatives to Congress chosen?
5. Qualifications.
6. Number of representatives.
7. Territorial delegates — how many? What for?
8. Officers of the House — what are they and how chosen?
9. Who is liable to impeachment, and how is impeachment brought about?
10. Senators — how chosen?
11. Qualifications of senators.
12. Presiding officer in Senate and other officers.
13. The trial of impeachments — how carried on?
14. What is meant by a “session” of Congress?
15. What is meant by a “Congress”?
16. Are the salaries of senators and members of Congress the same? Why should they be?
17. Tell us all about “national taxes.”
18. Meaning of *ad valorem* and *specific*.
19. Describe the process for becoming naturalized.
20. Discriminate the meaning of the words “bankrupt” and “insolvent.”
21. What was Patrick Henry’s objection to the “sweeping clause”?
22. Name some restrictions upon Congress. Where are they found in the Constitution? Read in full the section.
23. Name the restrictions here placed upon the several states. What section and article in the Constitution is this?

BLACKBOARD OUTLINE.



THE EXECUTIVE DEPARTMENT.

The President.		The Vice-President.
How Elected.		

PRESIDENTIAL ELECTORS.

How many.		Vote when.
How elected.		Votes counted when.
When elected.		President inaugurated when.



President's Qualifications.		Presidential Succession.
President's Duties.		Executive Departments.

## CHAPTER II.

### THE EXECUTIVE DEPARTMENT.

IN the natural order of things, we have considered, first the legislative department of our national government. We now proceed to examine the second great department, the executive power. This is treated of under the second article of the Constitution which begins as follows:—

“The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:”

By this clause we observe that,—

1. The executive power is vested in one person.
2. He is elected for the term of four years.
3. The Vice-President is elected for the same term.

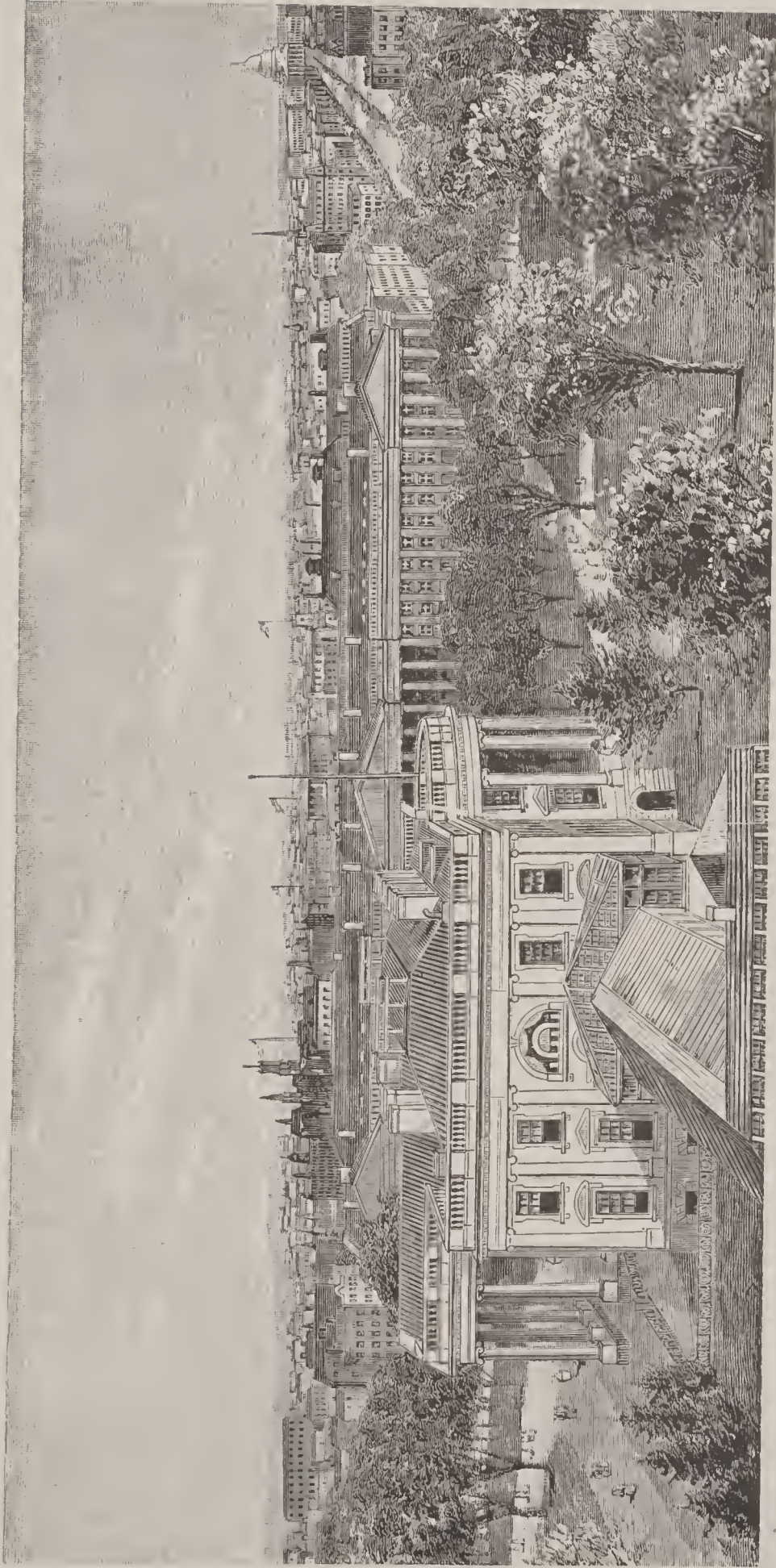
The following is the list of the Presidents, with their terms of office:—

1. George Washington, two terms, 1789 to 1797.
2. John Adams, one term, 1797 to 1801.
3. Thomas Jefferson, two terms, 1801 to 1809.
4. James Madison, two terms, 1809 to 1817.

5. James Monroe, two terms, 1817 to 1825.
6. John Quincy Adams, one term, 1825 to 1829.
7. Andrew Jackson, two terms, 1829 to 1837.
8. Martin Van Buren, one term, 1837 to 1841.
9. William Henry Harrison, one month, 1841.
10. John Tyler, three years and eleven months, 1841 to 1845.
11. James K. Polk, one term, 1845 to 1849.
12. Zachary Taylor, one year and four months, 1849 to 1850.
13. Millard Fillmore, two years and eight months, 1850 to 1853.
14. Franklin Pierce, one term, 1853 to 1857.
15. James Buchanan, one term, 1857 to 1861.
16. Abraham Lincoln, four years and one month, 1861 to 1865.
17. Andrew Johnson, three years and eleven months, 1865 to 1869.
18. Ulysses S. Grant, two terms, 1869 to 1877.
19. Rutherford B. Hayes, one term, 1877 to 1881.
20. James A. Garfield, four months, 1881.
21. Chester A. Arthur, three years and eight months, 1881 to 1885.
22. Grover Cleveland, one term, from 1885 to 1889.
23. Benjamin Harrison, from 1889 to —

It will be seen by the above table that we have had twenty-two Presidents in one hundred years. Of these, seven have been elected for a second term. Four Vice-Presidents have succeeded to the presidency by the death of the President.





THE EXECUTIVE MANSION.

THE TREASURY BUILDING.

A VIEW IN WASHINGTON.

THE CAPITOL.



**Presidential Electors.** — The Constitution says that, —

“Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.”

The several points embodied in this clause are as follows : —

1. The President is appointed by electors, and not by the immediate vote of the people.
2. The number of electors in each state.
3. Any person holding a United States office is prohibited from being an elector.

It was thought by the framers of the Constitution, that, if the direct choice of the President was taken from the people, and placed in the hands of electors chosen by the people, who would unquestionably be selected from the ablest and most trustworthy men of the nation, a wiser choice of President would be insured than if the people of the whole country were to vote directly for this officer. It was evidently the thought of the framers of the Constitution, that, after the electors had been appointed, they should meet and discuss the question and then determine for



whom their votes should be cast. The result, however, has proved that the election of President is not left in the hands of the electors, but is, in reality, determined by the people when they elect the presidential electors.

According to the custom which now prevails, the electors are practically pledged beforehand to vote for a certain candidate, who has been previously nominated in a national convention of a political party. The electors therefore exercise no discretion in their vote.

**Number of Electors.** — The number of electors is determined by the Constitution.

1. In the first place, each state is entitled to two electors corresponding to the equality of the states in the Senate.

2. In addition to these two, the number of electors to which each state is entitled, is fixed in accordance with the population of the state. We have seen that Congress determines once in ten years the number of representatives to which each state is entitled in the Congress. Each state is then entitled to as many electors as it has representatives in Congress. The whole number of electors therefore for each state is equal to the whole number of representatives and senators which that state sends to the Congress.

**Time of choosing Electors.**—The day for choosing the electors was fixed by an act of Congress, passed in 1845, as the Tuesday next after the first Monday in November. All the states choose their electors on the same day. The legislature of each state directs the manner in which these electors shall be elected. There have been heretofore four different modes of electing the electors:—

1. By joint ballot of the state legislatures.
2. By a concurrent vote of the two branches of the legislature.
3. By the popular vote of the state on one joint ticket.
4. By the people voting in districts.

The method now adopted by all the states is that of the people of the whole state voting by general ticket. By this method the vote of no state is divided, but the entire state vote is counted for the electoral college as nominated by one party or another.

**Electors Vote.**—In accordance with an act passed by Congress, February 3d, 1887, the electors meet in their respective states on the second Monday in January, to give their votes for President and Vice-President.

The electors give separate votes for the President and Vice-President by ballot. They then make three certificates of all the votes given.



These certificates they must sign and seal, and certify on each certificate that there is contained within a list of the votes of the electors of such a state (naming it), for President and Vice-President. One of these certificates is delivered to the judge of the United States District Court for that district in which the electors are assembled. A second certificate is forwarded forthwith, by mail, to Washington, directed to the President of the Senate. The electors appoint a person as special messenger to take the third certificate, carry it to Washington and deliver it to the President of the Senate. This special messenger is paid a sum fixed by law, on the mileage principle. The three certificates of the election of these electors are transmitted with the certificates of their votes.

**Votes Counted.** — The votes for President and Vice-President are counted on the second Wednesday of February in the hall of the House of Representatives in presence of both houses of Congress, the President of the Senate presiding. On that day the Senate marches in a body from the senate chamber to the other wing of the Capitol, and enters the hall of the House, the members of the House standing to receive them. All being seated, the President of the Senate opens the certificates in the presence of the two

houses, and hands them to the tellers, previously appointed by the two houses respectively, who count the votes, state by state, in alphabetical order, beginning with the letter A, and each vote, together with the aggregate vote, is declared by the presiding officer. This method gives dignity and insures fairness in the proceeding.

**Election by the House.** — In case no person receives a majority of the votes cast by the electors for President, the choice of a President is referred to the House of Representatives. The House must immediately proceed to the election of President, and the members are restricted in their votes to the three highest candidates in the vote by the electors. In thus voting for the President, the vote must be taken by states, the representatives from each state having one vote. The vote cannot be taken except a quorum shall be present, and this quorum is determined by the Constitution to be one or more representatives present from two-thirds of the states. It is possible that the House might be so divided as to be unable to elect any one of these three highest candidates. The Constitution provides for this emergency. The House must continue voting until the fourth day of March, when the session and the Congress expires. In case they make no choice prior to that date, then the Constitution

provides, that “The Vice-President shall act as President, as in the case of death, or other constitutional disability of the President.”

**Vice-President elected by the Senate.** — If there is no election of Vice-President by the electors, the Senate, immediately after the vote has been counted, — that is, on the second Wednesday in February, — proceeds to choose a Vice-President. There must be a quorum present for this purpose; and the Constitution fixes that quorum as two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. The senators must choose the Vice-President from the two highest numbers on the list voted for by the electors.

As the Vice-President may become President, the Constitution wisely provides that, —

“No person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.”

**Qualifications.** — The qualifications for President are as follows: —

1. He must be a native-born citizen.
2. He must have attained to the age of thirty-five years.
3. He must have been for fourteen years a resident within the United States.

No other qualifications than these three are fixed by the Constitution. The qualifications for the Vice-President are the same as for the President.

Observe the qualifications requisite for representatives to Congress, for senators, and for the President and Vice-President.

1. A representative must be twenty-five years of age ; a senator, thirty ; and a President or Vice-President, thirty-five.

2. A representative must have been a citizen of the United States seven years ; a senator, nine years ; and a President or Vice-President must be native born.

3. A representative must be an inhabitant of the state for which he is chosen ; a senator the same ; and a President must have resided within the United States fourteen years.

**The Vice-President.** — So long as the President performs the duties of his office, the Vice-President has no connection with the executive department, but is merely President of the Senate. In the case of the removal, resignation, or inability of the President, the Vice-President becomes President for the remainder of the presidential term.

The Vice-President has filled the presidential chair in four instances : —

1. After the death of President Harrison, Vice-President John Tyler filled the office of President from 1841 to 1845.



2. On the death of President Taylor, Millard Fillmore was President from 1850 to 1853.

3. Andrew Johnson, after the death of Abraham Lincoln, was President from 1865 to 1869.

4. Chester A. Arthur succeeded to the presidency on the death of President Garfield, and held that office from 1881 to 1885.

No Vice-President who had become President has died during his term of office. Congress has, however, by a law passed January, 1886, provided that in case of the removal, death, resignation, or inability of both the President and Vice-President of the United States, the Secretary of State, if there be one, shall become President, and hold the office during the remainder of the presidential term of four years; and in case there is no Secretary of State, or in case of his removal, death, resignation, or inability, then the Secretary of the Treasury, and next in order the Secretary of War, the Attorney-General, the Postmaster-General, the Secretary of the Navy, and the Secretary of the Interior.

If either of the foregoing officers does not have the three qualifications requisite for a President, he is not eligible to fill the vacancy, and the next officer in order who is eligible would become President for the remainder of the the term.



**Salary.** — The salary of the President was originally fixed at twenty-five thousand dollars a year. Since 1873 it has been fifty thousand dollars a year. The salary of the Vice-President is eight thousand dollars a year.

**The Powers of the President.** —

1. “The President shall be commander-in-chief of the army and navy of the United States and of the militia of the several states when called into actual service of the United States.”

2. “He shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.”

3. He makes treaties with foreign nations with the advice and consent of the Senate.

4. He appoints “ambassadors, foreign ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein provided for, and which shall be established by law.”

5. He has power to make temporary appointments of officers of the United States when vacancies happen during the recess of the Senate.

**Impeachment.** — “The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.”

**Executive Departments.** — The executive business of the government is divided among eight executive departments as follows: —

1. The Department of State.
2. The Department of the Treasury.
3. The Department of War.
4. The Department of the Navy.
5. The Department of the Post-Office.
6. The Department of the Interior.
7. The Department of Justice.
8. The Department of Agriculture.

The Constitution places the full executive power in the hands of one man, the President. It makes no provision for the Cabinet; but it gives the President authority to “require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices.” This implies that executive departments will be established so that the various and multiform duties pertaining to the executive work of the national government may be efficiently and systematically performed. The eight departments just mentioned have been established by Congress, and several of them have been subdivided into bureaus. The heads of all these departments are appointed by the President, by and with the advice and consent of the Senate.

The salaries of these officers are eight thousand dollars each per annum.

**The Department of State.** — Originally this was styled the Department of Foreign Affairs. The Secretary of State is generally considered the highest officer in rank of the executive departments under the President. It is his duty to keep the seal of the United States, and to affix it to all commissions granted by the President. He issues all proclamations in the name of the President, and furnishes copies of papers and records of his office when required.

He keeps the correspondence with foreign powers and preserves the original of all laws, public documents and treaties with foreign nations. It is his duty to conduct the correspondence with our ministers and consuls to other countries, with foreign ministers accredited to our government, and in general he has charge of matters pertaining to our foreign relations. He issues passports to our citizens visiting foreign countries, and warrants for the extradition of criminals to be delivered up to foreign governments.

The Department of State has a diplomatic bureau, a consular bureau and a domestic bureau.

**Public Ministers and Consuls.** — All persons who are sent abroad to represent our government are connected with the Department of State.

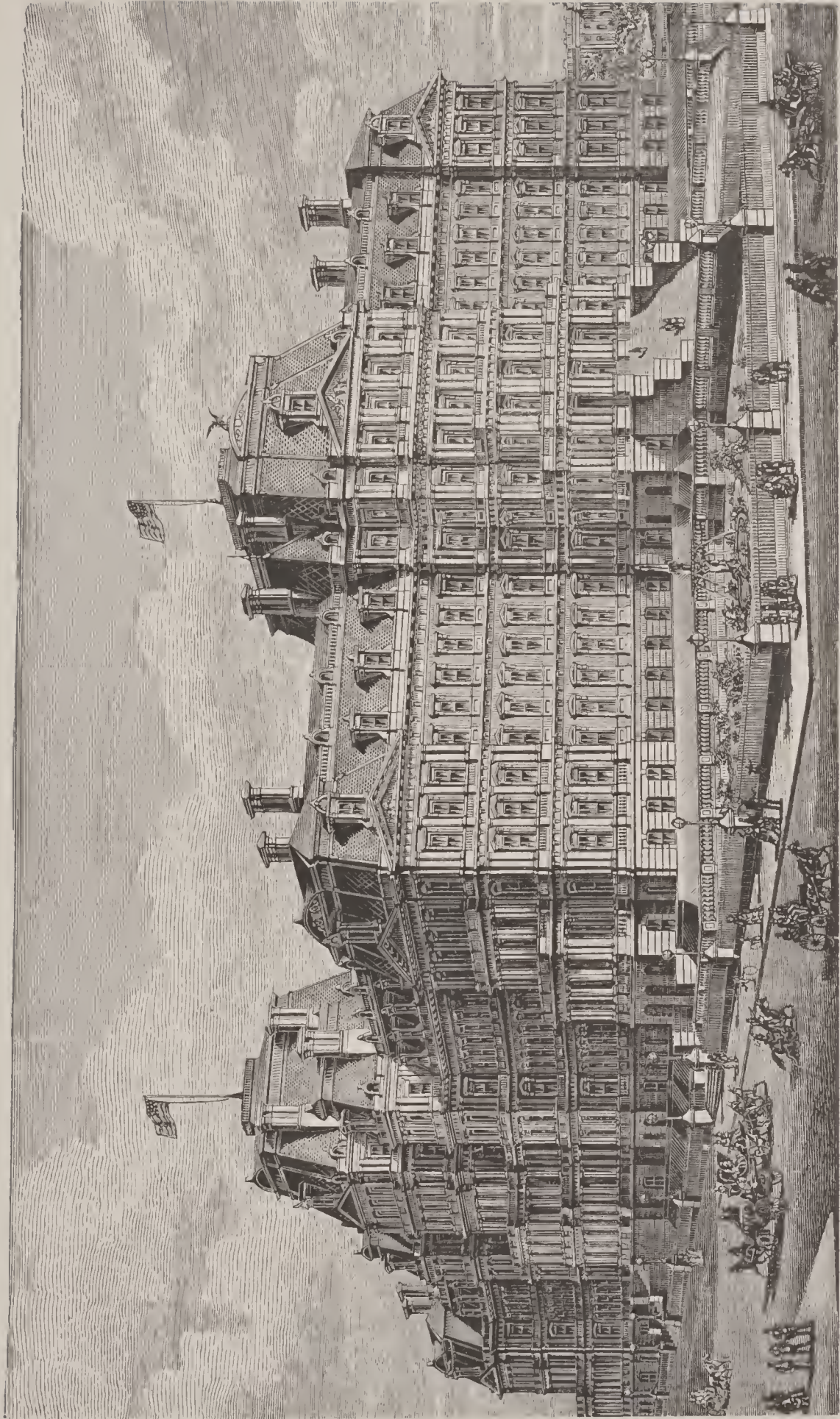
The different ranks of our ministers are as follows:—

1. Ambassadors.
2. Envoys Extraordinary and Ministers Plenipotentiary.
3. Ministers Resident.
4. *Chargés d'Affaires*.
5. Secretaries of Legation.

The Ambassador and the Envoy Extraordinary, and Ministers Plenipotentiary have the same pay and appear to be of the same rank. Strictly speaking, we never send ambassadors to foreign governments. The salaries of our foreign ministers range from ten thousand dollars to seventeen thousand five hundred dollars a year.

*Chargés d'Affaires* receive five thousand dollars each. The Secretary of Legation is the clerk to the Foreign Embassy. Consuls are not diplomatic agents of our government, but are commercial agents residing abroad, whose duty it is to watch over the interests of our commerce and of our citizens, in the ports of the different countries. They are charged also with protecting the rights of our seamen. The salaries of Consuls-General and commercial agents range from one thousand dollars to six thousand dollars per annum. Many consuls are paid principally by fees.





THE NEW STATE, WAR, AND NAVY BUILDING.





**The Treasury Department.** — Of late years the importance of this department has gradually increased. During the Civil War the government issued bank bills, termed “greenbacks,” and established a system of national banks, which have increased materially the number of officers and employees in this department. Under the Secretary of the Treasury are the following officers : —

1. The Comptroller.
2. Auditor.
3. Treasurer.
4. Register.
5. Assistant Secretary.

This department has charge of the revenue, superintends its collection, grants warrants for money to be issued from the treasury, in pursuance of appropriations made by law, and generally performs all needful services relative to the finances of our country. In the Treasury Department are the following bureaus : —

1. The Bureau of the First Comptroller.
2. The Bureau of the Second Comptroller.
3. The Bureau of the First Auditor.
4. The Bureau of the Second Auditor.
5. The Bureau of the Third Auditor.
6. The Bureau of the Fourth Auditor.
7. The Bureau of the Fifth Auditor.
8. The Bureau of the Sixth Auditor.

9. Treasurer.
10. Register.
11. Commissioner of Customs.
12. Comptroller of Currency.
13. Commissioner of Internal Revenue.
14. Bureau of Statistics.
15. The Mint.
16. Bureau of Engraving and Printing.

**Coast Survey.** — The office of the Coast Survey is connected with the Treasury Department. This office prepares charts from actual surveys of the seacoast of the United States. The surveys of the Great Lakes are under the control of the War Department.

**Light-Houses.** — The light-houses of the United States were formerly under the control of the Treasury Department, but for nearly forty years past have been committed “to the Light-House Board of the United States.” This board consists of three officers of the army, three of the navy, and two civilians noted for their scientific attainments, with the Secretary of the Treasury president of the board *ex officio*. This board has in charge between one thousand and two thousand light-houses, besides light-vessels, beacons and buoys innumerable.

Under this department also is the Supervising Architect, who has general charge of the plans and construction of all United States buildings,

such as custom-houses, court-houses, post-offices, etc.

**The War Department.** — This department has various subdivisions as follows : —

1. The Office of Adjutant-General.
2. The Office of the Quartermaster-General.
3. The Office of the Commissary-General.
4. The Office of the Paymaster-General.
5. The Office of the Chief of Engineers.
6. The Ordnance Office.
7. The Signal Office.
8. The Bureau of Military Justice.

The Bureau of Military Justice is in charge of an officer with the rank of a Brigadier-General, called a Judge-Advocate-General. Under this department is the United States Military Academy at West Point. This school was established for the education of officers for the army.

**West Point.** — The students are termed cadets, and number between three and four hundred. They are appointed as follows: One from each congressional district, one from each of the organized territories, one from the District of Columbia, and ten from the United States at large. These are all appointed by the President, but each member of the national House of Representatives nominates the candidate for his district. The President appoints the ten candidates

at large. Candidates for appointment must not be less than seventeen nor more than twenty-two years of age, and they are expected to serve in the army eight years, unless sooner discharged.

The examination for admission to West Point is careful and accurate upon the elements of a good education. In arithmetic, geography, English grammar, reading, writing, spelling, and the history of the United States, thoroughness and accuracy are required.

It has become customary of late for congressmen to hold competitive examinations, and to nominate for vacant positions at West Point those who have passed the best examinations in respect to mental qualifications and scholarship, with good physical health, strength, and development.

The superintendent and principal members of the faculty are regular officers in the army.

Each cadet receives an allowance during his term of study sufficient to pay his necessary expenses for clothing, board, etc. The entire expense of the academy is met by the United States government. Congress makes annually for this purpose an appropriation of three hundred thousand dollars or more.

**The Department of the Navy.** — This department is divided into eight bureaus, as follows: —



1. The Bureau of Yards and Docks.
2. The Bureau of Equipment and Recruiting.
3. The Bureau of Navigation.
4. The Bureau of Ordnance.
5. The Bureau of Medicine and Surgery.
6. The Bureau of Provisions and Clothing.
7. The Bureau of Steam Engineering.
8. The Bureau of Construction and Repairs.

**Naval Academy.** — Under the charge of this department is maintained, at Annapolis, Md., a naval academy similar to the military academy at West Point. To enter this academy as cadet-midshipman, the student must not be less than fourteen, nor more than eighteen, years of age. The same number is allowed as at West Point, and by the same method of appointment. The course of study embraces six years, and the student on graduating becomes midshipman, subject to promotion as vacancies occur. This academy requires an annual appropriation from the government of two hundred thousand dollars or more.

**The Department of the Post-Office.** — Probably this is the oldest department under our government. Prior to the Revolution the British government had established a system of mails through these colonies, and Dr. Benjamin Franklin was the superintendent of this system. In July, 1775, only a month later than the battle of

Bunker Hill, Doctor Franklin received from the Second Continental Congress the appointment of Postmaster-General of the United Colonies.

In September, 1789, the first Congress under the Constitution made provision for the establishment of the post-office system, and appointed a Postmaster-General. As a matter of fact, the Federal government never passed an act establishing the Post-Office Department. It was assumed to be in existence, and various acts were passed for regulating its management. There are three assistant postmasters-general: The first assistant is in charge of the Appointment Office, the second of the Contract Office, the third of the Finance Office. There is also a Superintendent of Foreign Mails.

The chief officer of the Money-Order Bureau is styled the Superintendent of the Money-Order System.

It will readily appear that great care, promptness, and accuracy is needed in assorting mail-matter and preparing it for delivery. Especially is this true of the principal lines of railroads leading to large cities; for example, between New Haven and New York, or between Philadelphia and New York; and a large number of mail-agents are required in the mail-cars, whose business it is to assort the mail-matter, and deposit it

in proper pouches, carefully marked, so that on arrival at New York the matter can at once be placed in the proper boxes in the post-office and delivered with the least possible loss of time.

**Distributing Offices.** — Formerly, in all large cities, there was a distributing post-office. Into this department the mail-pouches had to be brought from all directions, which contained matter to be forwarded to distant points. All this matter had to be overhauled, arranged, and put into the proper pouches for further transportation; for example, at New York, mail-matter from New England, designed for the South and West, would be all poured out upon large tables, assorted, divided, and thrown into proper pockets for carrying to Philadelphia, Harrisburg, Baltimore, Washington, etc.; while at the same time, and at the same distributing office, would be received the mails from the South and West, to be overhauled in like manner, and forwarded to the East.

Much time was consumed by this frequent change and examination of mail-matter. Time has now become so important a factor in the transaction of business that every facility must be employed for the rapidity of transmission. Hence most of the distributing offices have been abolished, and mail-pouches are now made up in Boston, New York, Philadelphia, and all large

cities, to be forwarded through to the most distant points, like San Francisco, Portland, Montreal, and Quebec.

**Cheap Postage.** — Formerly, but within the recollection of persons now living, it cost five cents to transmit an ordinary letter to any post-office within thirty miles, ten cents for a longer distance, and from that up to twenty-five cents across the continent.

All postage was then paid by the receiver at the end of the route. Fifty years ago there was no prepayment of postage, and more than forty years ago a law was passed by Congress establishing the postage of a single letter at three cents for any distance within our country, provided the sender should pay the postage; if not prepaid, the postage should be five cents.

In this way people became accustomed to prepaying postage, so that after a few years another act was passed by Congress, requiring prepayment of postage on all letters, establishing the rate at three cents for an ordinary letter without regard to distance. At the present time the postage on letters not exceeding an ounce in weight is two cents to any part of our country, and including the British Provinces of North America.

Some years ago a postal league was entered



into by the principal civilized nations of the earth, establishing the uniform rate of five cents as the postage for all letters, of proper weight, from any one of the countries within the postal league to any other.

The experiment of cheap postage, which was first introduced into Great Britain, a generation or more ago, has proved entirely successful. In that country the contest for this improvement was severe and protracted. Rowland Hill and others devoted themselves with great energy to the philanthropic enterprise of bringing about this much-needed reform.

When the reduction of rates had proved successful in the mother country, it was quickly introduced by our government, and from time to time, as the rate of postage has been diminished, it has been found that the receipts of the Post-Office Department have increased. At the present time the Post-Office Department more than pays for itself, excepting in the more sparsely populated districts of some sections of our country.

**The Department of the Interior.** — This department was established in 1849. Under it are : —

1. The Patent Office.
2. The Pension Office.
3. The Land Office.



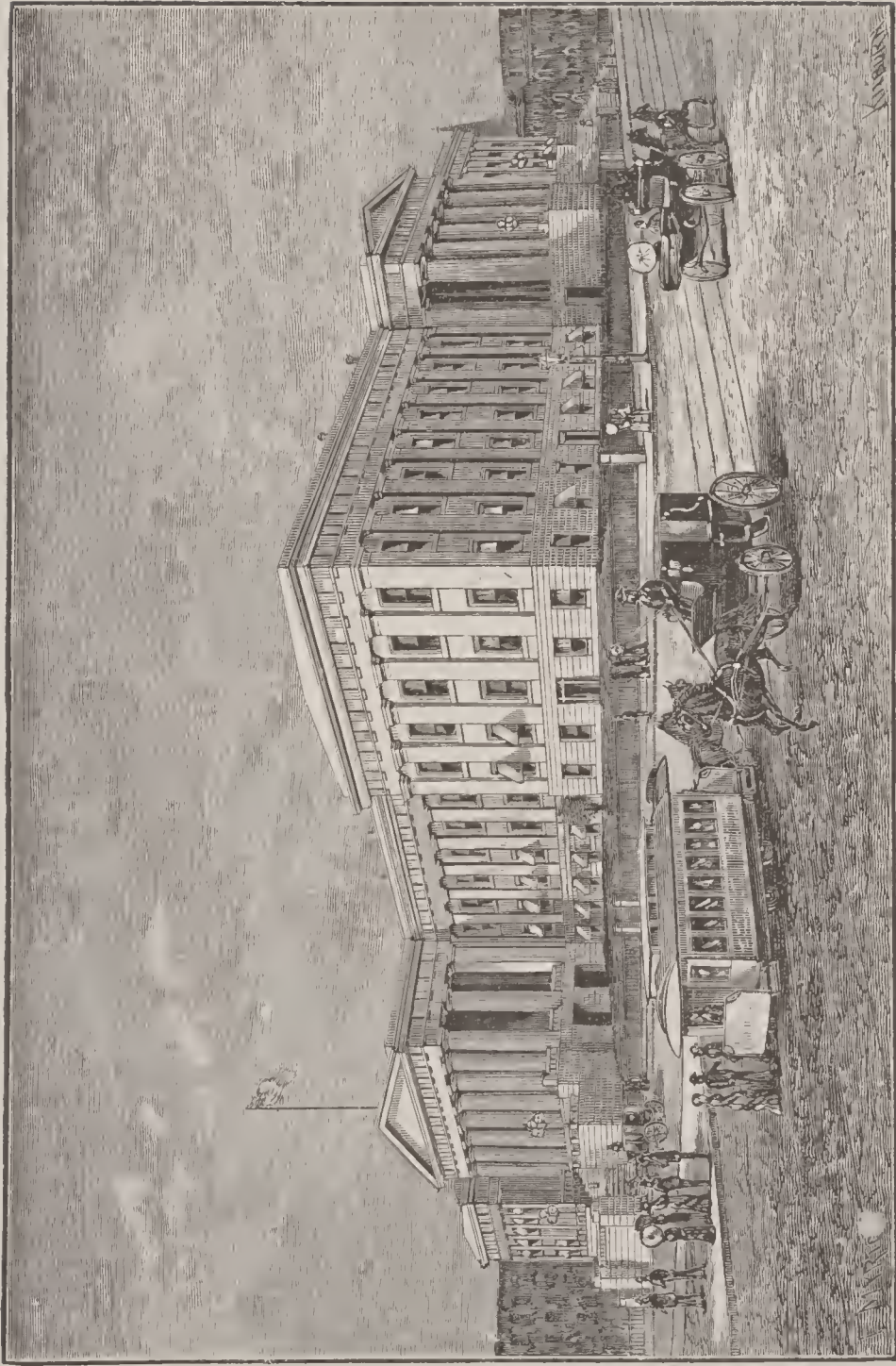
4. The Science Bureau.
5. The Bureau of Indian Affairs.
6. The Bureau of Education.

The business of the Patent Office is conducted under the direction and control of the Commissioner of Patents, who receives applications and superintends the granting and issuing of patents in accordance with the various acts of Congress passed at different times on this subject. The business of the office is to grant letters-patent to

“inventors or discoverers of any new or useful art, machine, manufacture or composition of matter, or any new and useful improvement on such, which had previously been unknown, and which had not been used by others, and which had not been on sale or in public use for more than two years prior to the application for a patent.”

The Patent Office employs many clerks called examiners, who investigate the claims of every invention for which a patent is solicited. The patent itself is the official document issued in the name of the United States, and is granted for the period of seventeen years. Its actual cost is thirty dollars.

Each article offered for sale by the patentee must have stamped upon it the word “patent” with the date when the patent was issued.



THE PATENT-OFFICE BUILDING.



**The Pension Office.**— Since the Civil War, this office has grown to gigantic proportions. It has in charge the entire matter of granting pensions and keeping the accounts thereof in accordance with the laws passed by Congress at different times upon this subject. The Pension Office in Washington is an immense building, filled with clerks who are constantly employed in keeping the records and attending to the accounts of pensions and pensioners. The business of this office has grown from year to year, and the amount of money disbursed by it has increased, until, at the present time, the aggregate amount of pensions paid is in the neighborhood of one hundred million dollars a year.

**The Land Office.**— The chief officer of this bureau is styled the Commissioner of the General Land Office. Under the commissioner are the following officers:—

1. Surveyors-General.
2. Registers of Land Offices.
3. Receivers of Land Offices.

Many years ago the United States adopted a system of survey for the public lands. This system provides that the immense tracts of western lands belonging to the United States government should be divided into ranges, townships, sec-



tions, and fractions of sections. The ranges are bounded by meridian lines six miles apart, and are numbered from a standard or principal meridian east and west. These ranges are divided into townships of six miles square, and numbered from a given parallel north and south.

The townships are divided into thirty-six sections, each one mile square, and hence embracing six hundred and forty acres. These sections are divided, as may be needed, into halves, quarters, eighths, and in some cases sixteenths. The sections in a township are numbered as indicated in the following diagram:—

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

This system of marking the division of lands makes the description of any individual tract very simple.

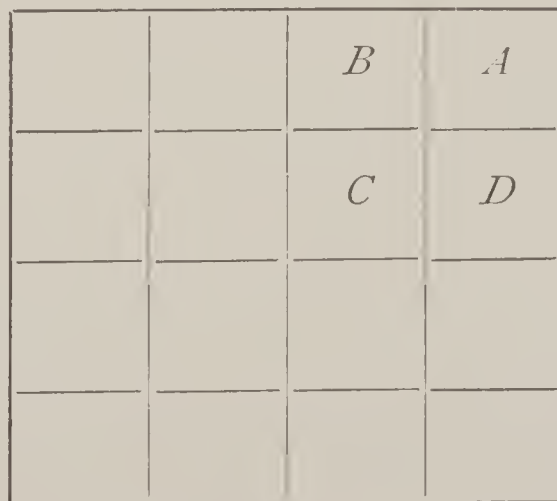


If one should purchase a section, the deed would specify the number of the section,—in such a township and such a range; or if a quarter-section were purchased, the description might be as follows:—

The northeast quarter of section twenty-four, township seventeen north, range nine east of third principal meridian. The government sells this land and issues a patent, which is signed by a secretary appointed by the President, and also signed by a proper recorder of the land office.

The quarter-section is one hundred and sixty acres. These quarter-sections are divided into lots of forty acres each. If one lot was sold, it would be indicated as follows:—

The northwest quarter of northeast quarter of section seventeen.



SECTION 17.

In the above diagram the description just given applies to lot B.

**The Bureau of Indian Affairs.** — This bureau, established in 1832, is in charge of a Commissioner of Indian Affairs, and has the management of all matters arising out of the relation of the government to the Indians. It cares for, pays to, or expends for, their benefit, all moneys due on account of lands ceded by Indians to the national government; looks after their interests in lands reserved; has begun the work of allotting and patenting a certain portion to each member of the tribe individually; preserves order upon Indian reservations through Indian police and Indian courts; employs agents, farmers, and mechanics to live among the Indians and teach them the occupations and customs of civilized life; assists the Indians in building houses, opening farms, and getting a start in civilization; and educates their children.

**Indian Schools.**—On Indian reservations are many day schools; but as a rule, Indian children are educated in industrial boarding schools. Most of these are on reservations; but the government supports also large schools off reservations among white communities, where the pupils have special opportunities for acquiring civilized habits and customs. In addition to these schools, which are wholly sustained by the government, the Indian Office makes contracts for the educa-

tion of Indian youth in various private or denominational schools. The work of the Indian Bureau, and especially of the Indian schools, is growing in importance and in public interest. Many think that all tribal relations should cease, and that the Indians should be treated as individuals, the same as all other races are treated.

**The Bureau of Education.** — This bureau was established by Congress nearly twenty-five years ago for the purpose of collecting statistics relating to educational matters in the different states and territories of the Union, and of promoting the progress of education throughout the nation. It is especially designed as a central medium of communication on educational subjects between the various states of the Union and between this country and foreign nations. It is placed in charge of an officer styled the United States Commissioner of Education. This bureau has proved itself of great educational value to the country.

**The Department of Justice.** — The office of Attorney-General was created by the first Congress in 1789, but the Department of Justice was not established until 1870. This officer, however, has always been recognized as a member of the Cabinet. Under the Attorney-General are: —

1. The Solicitor-General.
2. An Assistant Attorney-General.
3. An Assistant Attorney-General for the Court of Claims.
4. An Assistant Attorney-General in the Department of the Interior.
5. An Assistant Attorney-General in the Post-Office Department.
6. A Solicitor of Internal Revenue.
7. Naval Solicitor.
8. Examiner of Claims.
9. Solicitor of the Treasury.
10. An Assistant Solicitor.

All of these officers are appointed by the President and Senate. Besides these officers, in this department are employed many persons as clerks, copyists, etc.

**Money and Banking.** — We have already considered the coins of our country. Our money system is bi-metallic, both gold and silver coins being legal tender. The gold and silver coins are the ordinary and legitimate legal tender in payment of debts. This is customary among the nations generally.

The rapid growth of our country, with the corresponding increase of business and population, has made it impossible for us to secure a sufficient amount of coin to carry on the necessary business of the country. Moreover, bank bills are far

more convenient than either gold or silver for large business transactions.

Banks were early established under charters from the various states. This is not prohibited by the Constitution. Prior to the Civil War, the bank notes issued by the various state banks in all parts of the country amounted to a very large sum, and were an important aid in carrying forward the immense business of the country.

The exigencies of the times during the Civil War, especially the need for very large sums of money by the government to carry on the war, gave occasion for new legislation by the national government upon this subject.

In 1864 a bill was passed by Congress, providing for a bureau of currency in the Treasury Department under the direction of an officer called the Comptroller. This bill provides that national banks may be formed by voluntary associations, with power to issue bills, receive deposits, loan money, and perform the ordinary functions of banks.

A year or two later Congress passed another act, levying a tax of ten per cent upon all notes issued by state banks used for circulation after August 1, 1866. Practically, this, of course, excluded the bills of the state banks from circulation, so that nearly all of those banks throughout the



country either closed their business, or transferred it to national banks, which were formed to take the place of the old state banks.

**Treasury Notes.** — During the war the government issued a paper currency, usually denominated treasury notes, or, as they were called in common language, “greenbacks,” from the circumstance that the engraved back of the note was printed in green ink. The government made these greenbacks legal tender in payment of debts, and paid them out from time to time for army supplies, soldiers’ pay, and other current expenses.

Large amounts of these greenbacks continued to circulate throughout the country with a somewhat uncertain and fluctuating value until 1879, when the government began to redeem them in gold at par. Since then their circulation has been continued on a par value with gold and the national bank notes. The government, however, has redeemed and retired them to such an extent that the amount in circulation is now very small. It will thus be seen that the Treasury Department of government acts in some sense as a bank of issue. It does not loan the money as other banks do, but pays out its bills for current expenses.

The Constitution provides that the national

government shall absolutely control the coinage of money. It prohibits the states severally from making anything but gold and silver coin a legal tender in payment of debts, and now, by bringing into operation this system of national banks, which has proved so eminently successful, our federal government, as it would appear, has established the principle that all forms of money and currency should be under its control.

**The Department of Agriculture.** — This department was formerly a bureau under the Department of the Interior. By a recent Act of Congress, on account of its growing importance and the rapidly increasing value of its work, it has been made into a distinct department, under the direction of a chief officer styled the Secretary of Agriculture, who is a member of the President's Cabinet.

QUESTIONS, TOPICS, AND SUGGESTIONS FOR  
REVIEW.

Designed to recall what has been learned and to suggest further thought, reading, and study.

1. Qualifications for President and Vice-President.
2. When are presidential electors elected?
3. Who can vote for presidential electors?
4. When do the presidential electors cast their votes?
5. When, where, and how are their votes counted?
6. When does the President take his seat, and what is the length of his term of office?
7. Describe the new law for the presidential succession.
8. Enumerate the powers and duties of the President.
9. What is the President's salary?
10. How are treaties made with foreign nations?
11. How do the qualifications for representative, senator, and President differ?
12. If there is no choice for the President by the vote of the electors, how is the President to be chosen?
13. If the electors make no choice for Vice-President, how is the Vice-President to be chosen?
14. How can a President be removed?
15. What officers constitute the President's Cabinet?
16. Write out in order the executive departments, and give the official title for the chief officer in these several departments.
17. Name the principal duties of the Secretary of State.
18. Give some account of our ministers to foreign governments.
19. Give a brief account of the Military Academy at West Point.
20. Of the Naval Academy at Annapolis.

21. Write an account of the national system of surveying and plotting public land.
22. Give some account of the Post-Office Department.
23. Of money and banking.
24. How is mail matter transported and distributed?
25. Give some account of the bureau of Indian affairs.
26. The Bureau of Education.
27. The Pension Office.

## BLACKBOARD OUTLINE.



### THE JUDICIAL DEPARTMENT.

1. The Supreme Court.      |      2. The Circuit Court.
3. The District Court.

### SPECIAL COURTS.

1. Court of Claims.
2. Supreme Court of the District of Columbia.
3. Supreme Courts in the Territories.
4. District Courts in the Territories.



## CHAPTER III.

### THE JUDICIAL DEPARTMENT.

THE Constitution provides that there shall be "one Supreme Court and such inferior courts as Congress may from time to time ordain and establish." In accordance therewith, Congress has established the following system of United States courts: —

1. The Supreme Court.
2. The Circuit Court.
3. The District Court.<sup>1</sup>

Besides these there are: —

1. Court of Claims, established in 1855.
2. Supreme Court of the District of Columbia.
3. Supreme Courts in the Territories.
4. District Courts in the Territories.

The Supreme Court at the present time consists of a Chief Justice and eight associate justices. These nine justices correspond to the number of circuits, and one of them is assigned to each circuit. There are nine Circuit Courts, with nine judges of these courts. Appeals may be taken from the Circuit Court to the Supreme Court. The Circuit Courts are presided over by a

<sup>1</sup> In 1891 Congress established a new court, called the *Circuit Court of Appeals*, with circuits and judges corresponding to the Circuit Court.

Circuit Judge, a District Judge, a Justice of the Supreme Court, or any two of them. These Circuit Courts are again divided into districts, every state having at least one District Court. Some of the larger states are divided into two or more districts.

The salaries of the district judges vary from thirty-five hundred dollars to five thousand dollars. The judges of the Circuit Courts receive a salary of six thousand dollars. The associate justices of the Supreme Courts have a salary of ten thousand dollars; and the Chief Justice of this court receives ten thousand five hundred dollars.

Only certain kinds of cases can be brought before the United States courts. These courts have jurisdiction in the following cases: —

1. All cases in law and equity arising under the Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority.

2. All cases affecting ambassadors, other public ministers, and consuls.

3. All cases of admiralty and maritime jurisdiction.

4. Controversies to which the United States shall be a party.

5. Controversies between two or more states.

6. Controversies between a state and the citizens of another state.

7. Controversies between citizens of different states.

8. Controversies between citizens of the same state, claiming lands under grants of different states.

9. Controversies between a state or the citizens thereof and foreign states, citizens, or subjects.

The judicial power of the United States is here extended to controversies between a state and citizens of another state. This clause gave much discussion at the time the Constitution was adopted, and the states were unwilling to be subjected to lawsuits brought in the federal courts by citizens of other states. Accordingly, an amendment to the Constitution was proposed, and on the 8th of January, 1798, the President announced to the Congress that the amendment had been adopted by three-fourths of the states, and was, therefore, a part of the Constitution. This constitutes the eleventh of the amendments, and is as follows: —

“The judicial power of the United States shall not be construed to extend to any suit in law, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.”

Such cases must be brought before the state courts.

The Constitution provided that whether in the United States courts or in the courts of any state

“The trial of any crimes, except in cases of impeachment, shall be by jury; and such trials shall be held in the state where the said crimes shall have

been committed ; but when not committed within any state the trial shall be at such place or places as Congress may by law have directed."

A jury consists of twelve men, selected according to law, to determine matters of fact in a legal trial. The right of trial by a jury of one's peers was a right highly esteemed by the people of Great Britain, which they a long time ago compelled their king to yield to them. This right is here made a part of the Constitution of our country, and although not yielding all the good fruit which might be desired, yet is considered as one of the guaranties of a fair trial to any one accused of crime.

This clause provides that all trials for crime shall be held in the state where such crime has been committed.

### **Treason. —**

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

This clause defines treason as consisting of only two things : —

1. In levying war against the United States.

2. In adhering to their enemies, giving them aid and comfort, and it provides that,

“No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.”

“The Congress shall have the power to declare the punishment of treason ; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.”

The terms here used refer to an English custom. The old English law provided certain consequences as to the mode of execution of one who had been convicted of treason. He was to be put to death in a cruel manner, and his conviction involved what was called attainder, and this worked corruption of blood, or forfeiture.

There was no judgment of attainder, but the attainder was incident to the conviction as a matter of course. This attainder, as a natural consequence, was supposed to include corruption of blood, or forfeiture. His property of every kind was forfeited. His children could not inherit property from his ancestors through him. What was termed “corruption of blood” destroyed the power to inherit property.

Our Constitution prescribes that the offender himself shall bear the punishment. It shall not descend to his children. There may be forfeiture,



but this is rather in the nature of a fine, made at his conviction. This clause does not mean that the forfeiture shall extend only during the life of the person. The forfeiture or fine once made, of course the property or fine goes to the government permanently and not temporarily.

QUESTIONS, TOPICS, AND SUGGESTIONS FOR  
REVIEW.

Designed to recall what has been learned and to suggest further thought, reading, and study.

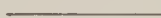
1. Describe the organization of the Supreme Court of the United States.
2. What is the salary of the justices ?
3. Describe the United States Circuit Courts.
4. Who may preside in a Circuit Court?
5. Describe the District Courts.
6. Name the salary of a judge of the Circuit Court.
7. What are the limits of the salary of the district judges?
8. What cases may be brought before the United States District Courts?
  9. Circuit Courts?
  10. The Supreme Court?
11. What courts try ordinary cases of crime, and suits between citizens of any one state?
12. Should a crime be committed in a post-office building, or a custom-house building owned by the United States, in what court would the case be tried?
13. Discuss the question of "trial by jury."

BLACKBOARD OUTLINE.



MISCELLANEOUS PROVISIONS.

“ Full Faith and Credit.”		“ Records.”
“ Public Acts.”		“ Judicial Proceedings.”



New States.		Republican Government.
Territories.		Amendments.

## CHAPTER IV.

### MISCELLANEOUS PROVISIONS.

THE Constitution provides that: —

“ Full faith and credit shall be given to the public acts, records, and judicial proceedings of every other state, and the Congress may, by general laws, prescribe the manner in which said acts, records, and proceedings shall be proved, and the effect thereof.”

1. “ Full faith and credit.” By these words are meant that the other state shall give the same credit, which the state itself gives to the acts, etc., when these have been proven.

2. “ Public acts.” By these are meant the laws of the state, or the action of the legislature.

3. “ Records.” These refer to general matters of legal record, such as laws, real estate records, legislative journals, etc.

4. “ Judicial proceedings.” The reference here is to the acts of the courts, judgments, orders, proceedings. In obedience to the last part of the clause, Congress, at an early date, passed an act specifying that the acts of the legislature of a state shall be authenticated by its seal. The same act also specifies the form of proof neces-

sary for the records of a court, and the attestation of the clerk together with the certificate of the judge. Such records and proceedings must receive full faith and credit in the courts of other states.

### **New States.—**

“New states may be admitted by the Congress into this Union ; but no new state shall be formed or erected within the jurisdiction of any other state, or any state be formed by the junction of two or more states, without the consent of the legislatures of the states concerned, as well as of the Congress.”

The first added state was Vermont, which was admitted into the Union by an act of Congress in 1791.

In 1792, Kentucky was admitted.

In 1796, Tennessee was admitted.

In 1803, Ohio was admitted.

In 1812, Louisiana was admitted.

In 1816, Indiana was admitted.

In 1817, Mississippi was admitted.

In 1818, Illinois was admitted.

In 1819, Alabama was admitted.

In 1820, Maine was admitted.

In 1821, Missouri was admitted.

In 1836, Arkansas was admitted.

In 1837, Michigan was admitted.

In 1845, Florida was admitted.



- In 1845, Texas was admitted.
- In 1846, Iowa was admitted.
- In 1848, Wisconsin was admitted.
- In 1850, California was admitted.
- In 1858, Minnesota was admitted.
- In 1859, Oregon was admitted.
- In 1861, Kansas was admitted.
- In 1863, West Virginia was admitted.
- In 1864, Nevada was admitted.
- In 1867, Nebraska was admitted.
- In 1876, Colorado was admitted.
- In 1889, North Dakota was admitted.
- In 1889, South Dakota was admitted.
- In 1889, Montana was admitted.
- In 1889, Washington was admitted.
- In 1890, Idaho was admitted.
- In 1890, Wyoming was admitted.

It will thus be seen that by the recent admission of the six states last mentioned, we now have in our federal Union forty-four states.

### **Territories. —**

“The Congress shall have power to dispose of, and make all needful rules and regulations, respecting the territory or other property belonging to the United States, and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.”

In accordance with this provision, Congress has from time to time passed laws regulating the organization of the territories and providing for territorial governments. We have at the present time, in addition to the forty-four states just mentioned, the District of Columbia, the Indian Territory, the unorganized Territory of Alaska, and four territories with regularly organized territorial governments as follows:—

- |                |              |
|----------------|--------------|
| 1. New Mexico. | 3. Utah.     |
| 2. Arizona.    | 4. Oklahoma. |

### Republican Government. —

“The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the legislature, or of the executive when the legislature cannot be convened, against domestic violence.”

By this section a republican government is made obligatory upon all the states. No particular department of the United States government is charged with this duty. It would seem reasonable that Congress should decide what government is the established one in a state, and this has been sanctioned by a decision of the Supreme Court. It would seem necessary also that the

President, as the executive officer of the national government, and commander-in-chief of the armies of the nation, should see that the provisions of this section should be enforced.

### Amendments. —

“The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on application of the legislature of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress: *provided* that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article, and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.”

Two modes of proposing amendments are here given, and there may be two modes of ratification: —

1. Amendments to the Constitution may be proposed to the several states by a two-thirds vote of both houses in Congress.

2. Amendments may be proposed by a convention, on the application of the legislatures of two-thirds of the states.

Whenever amendments have been proposed to the states by either of these methods, there are two ways in which they may be ratified: —

1. By the legislatures of three-fourths of the several states.

2. By conventions in three-fourths of the several states, as the one or the other mode of ratification may be proposed by Congress.

As a matter of fact, all the amendments which have been hitherto made have been proposed to the states by Congress; and they have all been ratified by the legislatures. It is probable that this method, which has proved satisfactory in the past, will not be departed from in the future.

### **Supreme Law of the Land. —**

“This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges of every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.”

This clause is of paramount importance in showing that the government of the United

States is supreme, and must be, not merely over the people, but over the land of the whole country, in all places belonging to this nation.

The Constitution, laws, and treaties are here made the supreme law of the land; and the statement is explicit and emphatic, that “the judges of every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.”

“The ratifications of the conventions of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same.”

As a matter of fact, the adoption of this Constitution was a peaceful revolution.

The Articles of Confederation provided as follows:—

“And the Articles of this Confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every state.”

They further provide, —

“That the articles thereof shall be inviolably observed by the states they respectively represent, and that the union shall be perpetual.”



Contrary, then, to these provisions of the Articles of Confederation, which were emphatically the supreme law of the land, this Constitution provides that it should go into effect between nine states as soon as ratified by that number.

QUESTIONS, TOPICS, AND SUGGESTIONS FOR  
REVIEW.

Designed to recall what has been learned and to suggest further thought, reading, and study.

1. What is meant by "full faith and credit"?
2. "Public acts"?
3. "Records"?
4. "Judicial proceedings"?
5. How may new states be admitted?
6. What power has Congress over the territories?
7. What has been the uniform method of proposing amendments to the Constitution?
8. What has been the uniform method of adopting amendments to the Constitution?

## BLACKBOARD OUTLINE.



### AMENDMENTS TO THE CONSTITUTION.

First Ten Amendments. — A Bill of Rights.

Eleventh Amendment. — Judicial Department.

Twelfth Amendment. — The Election of President.

Thirteenth Amendment. — Slavery.

Fourteenth Amendment. — Citizenship, Congressional Representation, Inability to hold Office under the United States, the Public Debt.

Fifteenth Amendment. — Shall not deny or abridge the right to vote.

Putting the Constitution into Operation.

## CHAPTER V.

### THE AMENDMENTS TO THE CONSTITUTION.

CONVENTIONS were called in the several states to discuss and adopt, or reject, this Constitution. After a time it was adopted by all of the thirteen original states, yet in several conventions there was a strong desire for certain modifications to satisfy the evident will of the people.

Congress, at its first session under the Constitution, proposed to the states twelve articles of amendment. Of these articles ten were ratified by the legislatures of three-fourths of the states, and became part and parcel of the Constitution from the fifteenth day of December, 1791. These constitute the first ten of the amendments to the Constitution. They, in general, relate to the rights of the people and to limitations of government. (The teacher is advised to turn to the Constitution, and read these amendments, discussing them in an informal way with the class.)

The Eleventh Amendment was proposed at the first session of the Third Congress, in 1794, and was declared adopted as a part of the Constitution January 8, 1798.

This amendment, which has been already considered, restricts the judicial power of the United States in suits at law between one of the United States and citizens of another state.

The Twelfth Amendment relates to the manner of electing President and Vice-President, and has already been considered. It was proposed by the first session of the Eighth Congress, in 1803, and was adopted by the requisite number of states the next year. At present there are three other amendments, the Thirteenth, Fourteenth, and Fifteenth, all of which have grown out of the Civil War.

### **The Thirteenth Amendment. —**

“Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

“Congress shall have power to enforce this article by appropriate legislation.”

This amendment was proposed by Congress in 1865, and ratified by the constitutional number of states the same year.

### **The Fourteenth Amendment. —**

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they



reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

“Representatives shall be apportioned among the several states, according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

“No person shall be a senator or representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Consti-

tution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

“The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

“The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.”

This amendment was proposed by Congress in 1866, and was declared to be a part of the Constitution in July, 1868.

### **Fifteenth Amendment. —**

“The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

“The Congress shall have power to enforce this article by appropriate legislation.”

The object of this article was to secure suffrage to the colored race, especially to the freed men of

the South. It specifies three points, in respect to which the right of citizens of the United States to vote shall not be denied or abridged, either by the national or state governments: —

1. On account of race.
2. On account of color.
3. On account of previous condition of servitude.

It was at first proposed to add two other points, nativity and religion, but these were stricken out before the proposed amendment was sanctioned by Congress.

This amendment was proposed by Congress in 1869, and was declared to be ratified in 1870.

#### **Putting the Constitution into Operation.**—

In July, 1788, a committee was appointed by the Congress to report an act for putting the Constitution into operation. This committee reported an act which was adopted on the 13th of September, as follows: —

“*Resolved*, that the first Wednesday in January next be the day of appointing electors in the several states, which before the said day shall have ratified the said Constitution; that the first Wednesday in February next be the day for the electors to assemble in their respective states, and vote for a President; and that the first Wednesday in March next be the time, and the present seat of Congress the place, for commencing proceedings under the said Constitution.”

The first Wednesday in March, 1789, happened to be the fourth day of the month, and as one presidential term and two Congresses occupies, by the Constitution, exactly four years, it follows that the inauguration of the President is to take place on the fourth day of March every fourth year, beginning with 1789.

Washington was elected President by unanimous vote. John Adams was declared elected Vice-President, and the new government went into operation quietly and with the general sanction of the people of the country. It is not a little remarkable that the first President should have been elected unanimously, and re-elected unanimously. No President since his day has received a unanimous vote of all the electors.

QUESTIONS, TOPICS, AND SUGGESTIONS FOR  
REVIEW.

Designed to recall what has been learned, and to suggest further thought, reading, and study.

1. When were the first ten amendments adopted?
2. Why are they called a "Bill of Rights"?
3. What is the Eleventh Amendment?
4. Give a brief history of the Twelfth Amendment, and state its object.
5. Tell the story of the Thirteenth Amendment.
6. Also the Fourteenth.
7. What was the object of the Fifteenth Amendment?
8. What measures were taken by the Congress for putting the Constitution into operation?



BLACKBOARD OUTLINE.



THE GROWTH OF OUR COUNTRY.

The Treaty of Paris.

Weakness of the Articles of  
Confederation.

Purchase of Louisiana.

Purchase of Florida.

Spanish Boundary.

Annexation of Texas.

Mexican Provinces.

Discovery of Gold.

The Oregon Country.

Alaska.

Our Present Condition.

## CHAPTER VI.

### THE GROWTH OF OUR COUNTRY.

THE original thirteen English colonies which secured their independence by the revolutionary war, extended from the St. Croix River on the eastern borders of Maine to the southern boundary of Georgia. The settlements in these colonies were invariably near the sea-coast. At the beginning of the revolution, but few settlers were to be found more than a hundred miles from the Atlantic. These colonies in the main extended westward to the Alleghany Mountains, but several of them claimed, under their grants and charters from the British crown, westward to the Mississippi River.

**The Treaty of Paris.** — The treaty of peace between the new Republic and Great Britain was negotiated at Paris. The preliminary treaty was signed in 1782, and the definitive treaty was executed the year following. Our commissioners in the negotiation of this treaty, to whom this country owes great gratitude for their patriotism and sagacity, were John Adams, John Jay, and Benjamin Franklin. In spite of strong opposition

they succeeded in securing for us the entire territory as far north as the Great Lakes, and westward to the Mississippi River, and southward to latitude  $31^{\circ}$ , the northern limit of Florida. This immense territory comprised more than eight hundred thousand square miles, and was from three to four times as large as France, or Spain, or Italy.

**Weakness of Articles of Confederation. —**

But the national government was weak and inefficient. The Articles of Confederation provided only for a Congress of delegates from the different states sitting as one house only, with no executive and no judicial department. This Congress had all power in advising and recommending, but no power to oblige the various States to perform their requisite duties. In 1787, on the recommendation of the Congress, a convention composed of delegates from the several states, assembled in Philadelphia, and framed the United States Constitution. This Constitution was submitted to the several states, and finally adopted by them all. Washington was unanimously elected the first President, and the new government went into effect on the fourth of March, 1789. The country soon began to rally, business improved, agriculture flourished, and manufactures increased. The new Republic was now on

a strong basis with a vigorous government, and it entered upon a career of unexampled growth and prosperity.

**Purchase of Louisiana.** — The extent of territory remained unchanged until the year 1803. Three years before this, Napoleon Bonaparte, then the First Consul of France, had secured from Spain that territory called the Province of Louisiana, which extended from the Gulf of Mexico on the south, northward as far as the Lake of the Woods, and from the Mississippi River westward to the Rocky Mountains. Early in the year 1803, Napoleon, finding himself on the eve of a war with Great Britain, proposed to sell this immense territory to the United States, in order to prevent its capture by Great Britain, and to replenish the treasury of France. In April of the year just mentioned, the treaty was executed by Napoleon and his secretary of the treasury, Barbè Marbois, for the Republic of France, and Robert R. Livingston and James Monroe for the United States of America. By this peaceful treaty, the entire territory, called the Province of Louisiana, was conveyed to the United States, we paying therefor the sum of fifteen million dollars. It was an accession so great that, comprising as it did nine hundred thousand square miles, it more than doubled our former territory. The

result has proved that it was of great importance to our country.

**The Purchase of Florida.** — Having obtained a foothold upon the Gulf of Mexico, our statesmen naturally desired to secure the coast from the Atlantic to New Orleans. Consequently, in 1819, we negotiated a treaty with Spain by which, for the sum of five million dollars, she ceded to us her provinces of East and West Florida. This treaty completed our title to the territory from the Atlantic to the Rocky Mountains, and from the Gulf to the Great Lakes.

**Spanish Boundary.** — The third article of the Florida treaty related to the boundary line between the United States and the Spanish provinces of North America. It established this line as follows: —

Beginning on the Gulf of Mexico at the mouth of the Sabine River, and following up that river to a certain point, thence due north, on the line which is now the boundary line of Texas, to the Red River; thence up the Red River to latitude one hundred; thence due north to the Arkansas River, and up the Arkansas to its source; thence due north to latitude forty-two, and westward upon that parallel to the Pacific Ocean. Spain relinquished all claim to the terri-



tory north and east of this line, and the United States relinquished to her all claim to the territory west and south of the line. This treaty gave us a stronger claim to the Oregon country, while we relinquished to Spain whatever claims we might have had to Texas.

**Annexation of Texas.** — Texas declared herself independent of Mexico in 1836; and in 1845, by joint resolution of Congress, ratified by the government of Texas, she was annexed to the United States.

**Purchase of Mexican Provinces.** — The war with Mexico followed; and at the conclusion of that war, our army being entirely victorious, and having captured the city of Mexico, a treaty was made between us and that country by which Mexico relinquished to us her provinces of New Mexico and Upper California, for which we paid the sum of fifteen million dollars. In 1853, through General Gadsden, we purchased from Mexico an additional strip of territory called the Masilla Valley, south of the Gila River, and now known as the Gadsden Purchase. For this strip we paid Mexico the sum of ten million dollars.

**The Discovery of Gold.** — Almost simultaneously with the news of the treaty with Mexico came the report of the discovery of gold in

California. The "gold fever" spread rapidly throughout the country, and in 1849 and 1850 thousands of persons flocked from all sections to the California coast in search of gold.

The state government was organized, and California was admitted as one of the states of the Union in 1850.

**The Size of these Additions.** — The annexation of Texas, with her original boundaries, gave us about three hundred thousand square miles; and the purchase of the Mexican provinces gave us six hundred thousand square miles more, so that our territory by this means was increased to the extent of another nine hundred thousand square miles.

**The Oregon Country.** — Our title to Oregon is based upon several claims, as follows: —

1. By right of discovery (Captain Gray in 1792).
2. By exploration (Lewis and Clark in 1805-6).
3. By first settlement (Astoria in 1811).
4. By purchase from France in 1803 of whatever claim she might have had to the country.
5. By purchase from Spain, in the Florida treaty, 1819, of all her right to this territory north of latitude forty-two.
6. By treaty with Great Britain in 1846, by which she yielded to us all her claim to the country south of latitude forty-nine.

This country included what to-day is comprised in the states of Oregon, Washington, and Idaho, and embraces about three hundred thousand square miles. Many parts of it are of the greatest fertility, with a mild and equable climate, forming in all respects one of the most delightful countries in the world.

**Alaska.** — In 1867 our government, through Secretary Seward, negotiated a treaty with the Russian government by which we obtained the entire territory of Alaska, comprising, in round numbers, about six hundred thousand square miles. We paid for this territory the sum of seven million two hundred thousand dollars. This is our latest addition.

**Our Present Whole Country.** — Our country now embraces about 3,600,000 square miles. Its eastern limits are the Atlantic Ocean; its western, the Pacific Ocean; its southern boundary is upon the Gulf of Mexico, and its northern is the Arctic Ocean. It extends through about one hundred and thirty degrees of longitude, and about forty-five degrees of latitude. It may be considered as embraced in four nearly equal divisions. The first part, being a little less than a quarter of the whole, includes the original territory east of the Mississippi River; the second

quarter, of about 900,000 square miles, embraces the Province of Louisiana; the third quarter consists of the original Texas, about 300,000 square miles, and the Mexican cessions of about 600,000 more; the fourth quarter includes the Oregon country, about 300,000 square miles, and Alaska, about 600,000 more.

**Our Present Condition.** — The entire extent of our country at the present time is 3,603,884 square miles. This is divided into forty-four states, six territories, and one federal district. The states proper include about 2,800,000 square miles, and the territories 800,000 square miles. The aggregate population is not far from 64,000,000, of which about 63,000,000 are in the states, and nearly 1,000,000 in the territories, including the District of Columbia. The densest population is in the State of Rhode Island, which averages about two hundred and fifty per square mile. If the entire country had a population as dense as Rhode Island, it would contain over 900,000,000, or about three-fifths of the present population of the globe.

QUESTIONS, TOPICS, AND SUGGESTIONS FOR  
REVIEW.

Designed to recall what has been learned and to suggest further thought, reading, and study.

1. What was the original extent of the United States territory?
2. Describe the Treaty of Paris.
3. Discuss the weakness of the Articles of Confederation.
4. Write a brief account of the purchase of the Province of Louisiana.
5. When was Florida purchased, of whom, and for what price?
6. Describe the third article of the Treaty of Florida.
7. Give some account of the annexation of Texas. Of the purchase of New Mexico and California.
8. Tell something about the discovery of gold in California, and its effects upon the country.
9. Upon what various grounds did we lay claim to the Oregon country?
10. When was Alaska purchased; by whom, of whom, at what price, and what was its extent?
11. Describe the present extent of our whole country: its aggregate size and its aggregate population.



BLACKBOARD OUTLINE.



RULES OF PROCEDURE FOR DELIBERATIVE ASSEMBLIES.

Formation of a Society.

Form of a Constitution.

Election of Officers.

Officers and their Duties.

Transaction of Business.

## CHAPTER VII.

### RULES OF PROCEDURE FOR DELIBERATIVE ASSEMBLIES.

#### SECTION I.

##### FORMATION OF A SOCIETY.

THIS is a country of majorities. The fundamental principle of our government is that the majority vote shall dominate. Deliberative assemblies are numerous throughout the land, from the Senate of the United States to the boys' debating society in the school. Every pupil in the upper classes of the grammar school should learn how to transact business in an orderly manner in an organized meeting.

The Senate of the United States, the National House of Representatives, the State Senate and House, the town meeting, the agricultural and the historical society, the county convention, the village lyceum, all are governed by "Rules of Order." The rules of the Senate are fixed and well known. The rules of the House are adopted by each Congress.

“Cushing’s Manual,” “Jefferson’s Manual,” and Barclay’s “Digest of the Rules and Practice of the House of Representatives, U. S.,” are well-known treatises on “Rules of Procedure.”

Let us suppose that the pupils of a certain school are about to form a debating society. The proper method would be for a number of persons interested in the matter to sign and post in the school-house a call for a meeting to organize such a society. Notice might, however, be given in some other manner; for example, at the request of several pupils, the teacher could give notice that all persons interested in effecting such an organization are requested to meet at such a time and place. If a written notice were posted, then the time having arrived, and the company being assembled, some one who had signed the call should call the meeting to order. Then the call may be read. Next a chairman should be chosen, on nomination, and a majority vote. A majority vote means a majority of all votes cast. A plurality means a larger number than any other one candidate has received. Blank ballots are not votes, and should not be counted as such. The chairman, being elected, takes the chair, and calls for the nomination of a secretary. When the secretary is elected, the meeting is duly “organized.”

It would then be proper to call for the appoint-

ment of a committee to draft a "Constitution" and "By-Laws." The meeting might then adjourn to a certain time and place, or to the call of the chairman, or to the call of the committee.

**Report of the Committee.** — At the next meeting the "Committee on Constitution" reports a draft for constitution and by-laws, which, after discussion and amendments, may be adopted.

**Form of a Constitution.** — The following will indicate the ordinary form of a constitution. Of course every constitution will have some distinguishing features differing from every other one.

CONSTITUTION OF THE CHICKATAWBUT  
DEBATING CLUB.

ARTICLE I.

NAME.

THE name of this organization shall be the Chickataw-  
out Debating Club.

ARTICLE II.

OBJECT.

The object of the club shall be to improve its mem-  
bers in the art of public speaking and conducting affairs  
in a deliberative assembly.

## ARTICLE III.

## MEMBERS.

SECTION 1. Membership in this club is confined exclusively to the members of the senior class in the — Grammar School, in the town (or city) of —.<sup>1</sup>

SECTION 2. Any member of said class in said school desiring to become a member of this club, should make application to the Executive Committee, and, being recommended by said committee, and receiving a two-thirds vote of the members of the club present at any regular meeting shall be constituted a member by signing the constitution.

## ARTICLE IV.

## OFFICERS.

SECTION 1. The officers of the club shall consist of a President, a Vice-President, a Secretary, a Treasurer, and an Executive Committee, composed of the above-named officers and three other members.

SECTION 2. All officers shall be elected by ballot at the first meeting of each school year.

SECTION 3. The Executive Committee shall have the general management of the affairs of the club.

SECTION 4. It shall be the duty of the President, Vice-President, Secretary, and Treasurer faithfully to discharge the duties usually required of such officers in an association of this character. The President shall be chairman of the Executive Committee.

<sup>1</sup> This draft of a constitution is designed to fit a large graded grammar school. For a high school, or an ungraded school, the necessary changes from this form will readily suggest themselves to suit the particular school.



The Secretary shall give notice of the regular meetings, and of any special meetings called by the President, by posting upon the bulletin board in the school-house a written notice at least twenty-four hours prior to the time for said meeting.

## ARTICLE V.

### FINANCE.

SECTION 1. The annual membership fee shall be —, which shall be payable at the first meeting in each school year.

SECTION 2. Any member who shall not have paid his dues on or before the first regular meeting in December shall be notified by the treasurer that unless such dues are paid by the date of the first meeting in January his name shall be dropped from the membership of the club.

SECTION 3. No bills shall be paid by the treasurer till they are audited by the president.<sup>1</sup>

## ARTICLE VI.

### MEETINGS.

SECTION 1. The regular meetings of this club shall be on the second and fourth Friday evenings of each month, during term time.

SECTION 2. Special meetings may be called by the president, and he shall call a special meeting at the request in writing of three members of the club.

<sup>1</sup> In societies where the treasurer handles large sums of money, it is common to have an auditor, as a special officer of the society.

## ARTICLE VII.

## AMENDMENTS.

This constitution may be altered or amended by a two-thirds vote of the members present at any regular meeting of the club, notice of such alteration or amendment having been given in writing at a previous regular meeting.

The above will serve as a model by which the pupils in any school may frame a constitution to suit their own wants.

When the constitution has been reported by the committee, it should be read throughout, and then discussed article by article. When each article has been duly considered, and such amendments as might be proposed have been adopted or rejected, the article should be adopted, and then the next, and so on, until the entire constitution has been adopted by articles. It should then be adopted as a whole.

**Election of Officers.** — After the adoption of the constitution, the first business in order will be the election of officers. As each officer is elected, he replaces the temporary one, and when they are all elected the organization is completed.

In most cases the constitution provides some form for the admission of members. It is quite common for associations to require that each member shall sign his name to the constitution.

## SECTION II.

## OFFICERS AND THEIR DUTIES.

**Chairman or President.** — It is the duty of the Chairman to call the meeting to order at the appointed time, to preside at all the meetings, to announce the business before the assembly in its proper order, to state and put all questions properly brought before the assembly, to preserve order and decorum, and to decide all questions of order (subject to an appeal). When he “puts a question” to vote, and when speaking upon an appeal, he should stand; in all other cases he can sit. In all cases where his vote would affect the result, or where the vote is by ballot, he can vote. When a member rises to speak, he should say, “Mr. Chairman,” and the Chairman should reply, “Mr. A.” He should not interrupt a speaker so long as he is in order, but should listen to his speech, which should be addressed to him and not to the assembly. The Chairman should be careful to abstain from the appearance of partisanship, but he has the right to call another member to the chair while he addresses the assembly on a question; but when speaking to a question of order he does not leave the chair.

The **Clerk, Secretary, or Recording Secretary**, as he is variously called, should keep a record of

the proceedings of the convention, society, or association, whose officer he is. It is not his duty to record discussions, but only the resolutions, motions, orders, or whatever the action of the society may be called. He should record every vote, stating whether the motion or resolution which had been offered was adopted or rejected.

It is sometimes customary in the records to say that the question was discussed by Messrs. A., B., and C. in the affirmative, and D., E., and F. in the negative.

It is necessary for an inexperienced secretary to keep constantly in mind in making his records the fact that he is to record not what was said but what was done. Above all, he should never make in his minutes any criticism, favorable or unfavorable, upon anything that was said or done in the meeting.

**The Form of the Minutes** can be as follows:—

“The regular meeting of the Chickatawbut Club was held in the school-room, on Friday evening, May 9, 1890. The president was in the chair, and in the absence of the secretary, Mr. A. was chosen secretary *pro tem*. The minutes of the previous meeting were read and approved. The following persons were admitted by vote as members of the club, Messrs. A. B., C. D., E. F., and Misses G. H., I. J., and K. L.”

The question for the evening was the following:—

“*Resolved*, That the explorations of Henry M. Stanley will prove of greater value to the world than the Arctic voyages of Dr. Kane.

“The disputants upon the affirmative were Messrs. M. N., O. P., and R. S., and in the negative Mr. T. U., and Misses V. W., and X. Y.

“The question was decided by a large majority in the affirmative.

“At five minutes before nine o'clock the club adjourned.

“S—— E—— C——, *Secretary.*”

The constitution, and, if there are any, the by-laws, rules of order, and standing rules should be written in a book with blank pages, writing only on the right-hand page. The left-hand page should be left blank, on which amendments to the articles opposite may be entered, if there should be any. Each amendment should have recorded with it a reference to the date and page of the minutes where the action of the society adopting such amendment is recorded. It is customary to insert the constitution, etc., in the first part of the society's book, after which would be recorded the names of the members. Following these names the page can be used for the record of the minutes of the society.



**Treasurer.** — It is the duty of this officer to collect and hold the funds belonging to the society, and to pay out money on the order of the proper officer.

The treasurer should make a report annually to the society, which report should contain a statement of the amount of money on hand at the beginning of the year and amount received during the year, including the sources through which the money has come ; and a statement in brief of the amount of money paid out by order of the society and the balance on hand at the end of the year. This report is usually referred to an auditing committee, consisting of one or more persons, whose duty it is to examine the treasurer's books and vouchers, and make a certificate as to the correctness of his report. The form of auditor's report is usually something like the following:—

“ I hereby certify that I have examined the accounts and vouchers of the above report of T—— R——, the treasurer of the Chickatawbut Club, and find them correct, and that the balance on hand is,” etc., stating the amount on hand.

It is usual after the auditor's report has been read to accept the treasurer's report.

**Committees.** — In small societies there is less need of committees, but in permanent organizations, like the National or State Senate or House,

Common Council in a city, or school committee, nearly all matters of business should be referred to appropriate committees. These sub-committees examine the matters referred to them and report to the entire body. When a committee thus reports, it is usual for the body to accept its report, and unless special objections appear, to adopt its recommendations.

The first-named member of a committee is usually its chairman. It is his duty to call the committee together and to preside at their meetings. If he is absent it is customary for the next member in order to preside. A majority of a committee should constitute a quorum. The committee should not act unless a quorum be present. The committee may make a majority and minority report if the members do not agree. When a majority and a minority report have been presented to a body, it is competent for any member to move the acceptance of the majority report. It is proper for some other member to move to substitute the minority for the majority report. The minority report cannot be acted upon except by such motion to substitute it for the majority. When the committee's report has been read and accepted, the committee is discharged, without further motion, unless their report be a report of progress.

## SECTION III.

## TRANSACTION OF BUSINESS.

Every order, resolution, or motion to be submitted to a deliberative assembly should be in writing, and having been read should be handed to the president.

The following will illustrate the form of a resolution: —

*“Resolved.* — That the thanks of the Chickatawbut Club are hereby tendered to the principal of our school, Mr. A. B., for his timely, interesting, and useful address, to which we have just listened.”

The person desirous of offering this resolution should rise from his seat and address the chairman by his title, thus “Mr. President,” or “Mr. Chairman,” who immediately recognizes him and announces his name. He, then, having the floor, says “I move the adoption of the following resolution,” which he reads and hands to the chairman. Some one else seconds the motion, and the chairman says, “It has been moved and seconded that the following resolution be adopted.” He then reads the resolution, and, says, “Are there any remarks upon the resolution?” Here will follow a discussion of the resolution pro and con, if the members should be so disposed. If no one rises

to speak when the question is thrown open for discussion, or it having been discussed and the president thinks the debate is closed, he says, "Are you ready for the question?" If no one rises to speak, he puts the question in a form similar to the following: "The question is upon the adoption of the resolution which you have heard read. Those of you who are in favor of adopting this resolution will manifest it by saying 'Aye'; those contrary minded, 'No.' It is a vote, and the resolution is adopted." If the majority vote in the negative, the chairman will state that the resolution is lost. If he is in doubt, he will say, "The chair is in doubt, those in favor of the adoption of the resolution will rise and stand until counted." The president or the secretary makes the count. Those opposed will rise." The chairman announces the result.

A debating society like the one proposed above will prove of great service to young persons at school. They will not only improve themselves in the ability to speak before others, and present their thoughts in a clear and forcible manner, but they will rapidly improve their power to think upon any question which may be presented to their minds for consideration. Not the least advantage will be found to consist in their becoming familiar with proper methods of transact-

ing business in a deliberative assembly. Every such young person should familiarize himself with all points connected with rules of order, and such persons are specially advised to make themselves familiar with some one or more of the books heretofore recommended on this subject.

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QUESTIONS, TOPICS, AND SUGGESTIONS FOR  
REVIEW.

Designed to recall what has been learned and to suggest further thought, reading, and study.

1. Why is this a country of "Majorities"?
2. Describe the method of forming a society.
3. What are the essential officers?
4. Method of electing officers.
5. Duties of President.
6. Duties of Secretary.
7. Duties of Treasurer.
8. Why have an Auditor?
9. Write a form for auditing the Treasurer's annual report.
10. Write a form of "Minutes" of a meeting.
11. Write a "Resolution," extending the thanks of the society for a lecture.



## APPENDIX.



### THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

WE the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

#### ARTICLE. I.

SECTION. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION. 2. <sup>[1]</sup>The House of Representatives shall be composed of Members chosen every second year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

<sup>[2]</sup>No person shall be a Representative who shall not have attained to the Age of twenty five years, and been seven Years

[NOTE. — The small figures in brackets are not in the original, but have been added subsequently, to mark the different clauses in a section. In reprinting the constitution here, the spelling, punctuation, and capitalization of the original have been preserved.]

a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

[<sup>3</sup>] Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative ; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

[<sup>4</sup>] When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

[<sup>5</sup>] The House of Representatives shall chuse their Speaker and other officers ; and shall have the sole Power of Impeachment.

SECTION. 3. [<sup>1</sup>] The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years ; and each Senator shall have one Vote.

[<sup>2</sup>] Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class

shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third class at the Expiration of the sixth Year, so that one-third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

[<sup>3</sup>] No person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

[<sup>4</sup>] The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

[<sup>5</sup>] The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

[<sup>6</sup>] The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

[<sup>7</sup>] Judgment in Cases of Impeachment shall not extend further than to removal from Office, and Disqualification to hold and enjoy any Office of honour, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION. 4. [<sup>1</sup>] The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may

at any time by Law make or alter such Regulations, except as to the places of chusing Senators.

[<sup>2</sup>] The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION. 5. [<sup>1</sup>] Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business ; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

[<sup>2</sup>] Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

[<sup>3</sup>] Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy ; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

[<sup>4</sup>] Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION. 6. [<sup>1</sup>] The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same ; and for any speech or debate in either House, they shall not be questioned in any other Place.



[<sup>2</sup>] No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time ; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION. 7. [<sup>1</sup>] All Bills for raising Revenue shall originate in the House of Representatives ; but the Senate may propose or concur with Amendments as on other Bills.

[<sup>2</sup>] Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States ; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

[<sup>3</sup>] Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States ; and before the Same shall take Effect, shall be approved by him, or being



disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION. 8. The Congress shall have Power

[<sup>1</sup>] To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States ; but all Duties, Imposts and Excises shall be uniform throughout the United States ;

[<sup>2</sup>] To borrow Money on the credit of the United States ;

[<sup>3</sup>] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes ;

[<sup>4</sup>] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States ;

[<sup>5</sup>] To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures ;

[<sup>6</sup>] To provide for the Punishment of counterfeiting the Securities and current Coin of the United States ;

[<sup>7</sup>] To establish Post Offices and post Roads ;

[<sup>8</sup>] To promote the progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries ;

[<sup>9</sup>] To constitute Tribunals inferior to the supreme Court ;

[<sup>10</sup>] To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations ;

[<sup>11</sup>] To declare War, grant letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water ;

[<sup>12</sup>] To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years ;

[<sup>13</sup>] To provide and maintain a Navy ;

[<sup>14</sup>] To make Rules for the Government and Regulation of the land and naval Forces ;

[<sup>15</sup>] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions ;

[16] To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the Discipline prescribed by Congress ;

[17] To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, Dock-Yards, and other needful Buildings ; — And

[18] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION. 9. [1] The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or Duty may be imposed on such Importation, not exceeding ten dollars for each Person.

[2] The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

[3] No Bill of Attainder or ex post facto Law shall be passed.

[4] No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

[5] No Tax or Duty shall be laid on Articles exported from any State.

[6] No Preference shall be given by any Regulation of Com-

merce or Revenue to the Ports of one State over those of another : nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

[<sup>7</sup>] No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law ; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

[<sup>8</sup>] No Title of Nobility shall be granted by the United States : And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION. 10. [<sup>1</sup>] No State shall enter into any Treaty, Alliance, or Confederation ; grant Letters of Marque and Reprisal ; coin Money ; emit Bills of Credit ; make any Thing but gold and silver Coin a Tender in Payment of Debts ; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

[<sup>2</sup>] No State shall, without the consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws : and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States ; and all such Laws shall be subject to the Revision and Controul of the Congress.

[<sup>3</sup>] No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of Delay.

## ARTICLE. II.

SECTION. I. [<sup>1</sup>] The executive Power shall be vested in a President of the United States of America. He shall hold his

Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

[<sup>2</sup>] Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

\* [<sup>3</sup>] The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority and have an equal number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; a Quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a choice. In every Case, after the Choice of the President, the Person having the greatest Number

\* This clause has been superseded by the 12th amendment, on page 80.



of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

[<sup>4</sup>]The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes ; which Day shall be the same throughout the United States.

[<sup>5</sup>]No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President ; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

[<sup>6</sup>]In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation, or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

[<sup>7</sup>]The President shall, at stated Times, receive for his services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

[<sup>8</sup>]Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation : —

“ I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

SECTION. 2. [<sup>1</sup>]The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the



United States ; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

[<sup>2</sup>] He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur ; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law : but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

[<sup>3</sup>] The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient ; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the time of Adjournment, he may adjourn them to such Time as he shall think proper ; he shall receive Ambassadors and other public Ministers ; he shall take Care that the Laws be faithfully executed, and shall Commission all the officers of the United States.

SECTION. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

## ARTICLE. III.

SECTION. 1. The Judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation which shall not be diminished during their Continuance in Office.

SECTION. 2. <sup>[1]</sup>The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority ;— to all Cases affecting Ambassadors, other public Ministers and Consuls ;— to all Cases of admiralty and maritime Jurisdiction ;— to Controversies to which the United States shall be a Party ;— to Controversies between two or more States ;— between a State and Citizens of another State ;— between Citizens of different States, — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

<sup>[2]</sup> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

<sup>[3]</sup> The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury ; and such Trial shall be held in the State where the said Crimes shall have been committed ; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

SECTION. 3. <sup>[1]</sup> Treason against the United States, shall con-

sist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

[<sup>2</sup>] The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

#### ARTICLE. IV.

SECTION. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records, and Proceedings shall be proved, and the Effect thereof.

SECTION. 2. [<sup>1</sup>] The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

[<sup>2</sup>] A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

[<sup>3</sup>] No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

SECTION. 3. [<sup>1</sup>] New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

[<sup>2</sup>] The Congress shall have Power to dispose of and make all

needful Rules and Regulations respecting the Territory or other Property belonging to the United States ; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion, and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

#### ARTICLE. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress ; Provided that no Amendment which may be made prior to the Year one thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article ; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

#### ARTICLE. VI.

[<sup>1</sup>] All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

[<sup>2</sup>] This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the Land ; and the Judges in every



State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

[3] The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution ; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. **In Witness** whereof We have hereunto subscribed our Names,

G<sup>o</sup> WASHINGTON —

*Presidt and deputy from Virginia*

NEW HAMPSHIRE.

JOHN LANGDON

NICHOLAS GILMAN

MASSACHUSETTS.

NATHANIEL GORHAM

RUFUS KING

CONNECTICUT.

WM SAML JOHNSON

ROGER SHERMAN

NEW YORK.

ALEXANDER HAMILTON

NEW JERSEY.

WIL LIVINGSTON

DAVID BREARLEY

WM PATERSON

JONA DAYTON





the freedom of speech, or of the press ; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

(ARTICLE II.)

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

(ARTICLE III.)

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

(ARTICLE IV.)

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

(ARTICLE V.)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger ; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb ; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law ; nor shall private property be taken for public use, without just compensation.

(ARTICLE VI.)

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which

district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation ; to be confronted with the witnesses against him ; to have Compulsory process for obtaining Witnesses in his favour, and to have the Assistance of Counsel for his defence.

## (ARTICLE VII.)

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

## (ARTICLE VIII.)

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## (ARTICLE IX.)

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

## (ARTICLE X.)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

## (ARTICLE XI.)

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

## (ARTICLE XII.)

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at

least, shall not be an inhabitant of the same state with themselves ; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate ; — The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted ; — The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed ; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote ; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. — The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President ; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to



the office of President shall be eligible to that of Vice-President of the United States.

(ARTICLE XIII.)

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECT. 2. Congress shall have power to enforce this article by appropriate legislation.

(ARTICLE XIV.)

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SECT. 2. Representatives shall be apportioned among the several States, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crimes, the basis of representation shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens, twenty-one years of age, in such State.

SECT. 3. No person shall be a senator or representative in



Congress, or elector of president or vice-president, or hold any office, civil or military, under the United States or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house remove such disability.

SECT. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any State, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave ; but all such debts, obligations, and claims shall be held illegal and void.

SECT. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

(ARTICLE XV.)

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

SECT. 2. The Congress shall have power to enforce this article by appropriate legislation.

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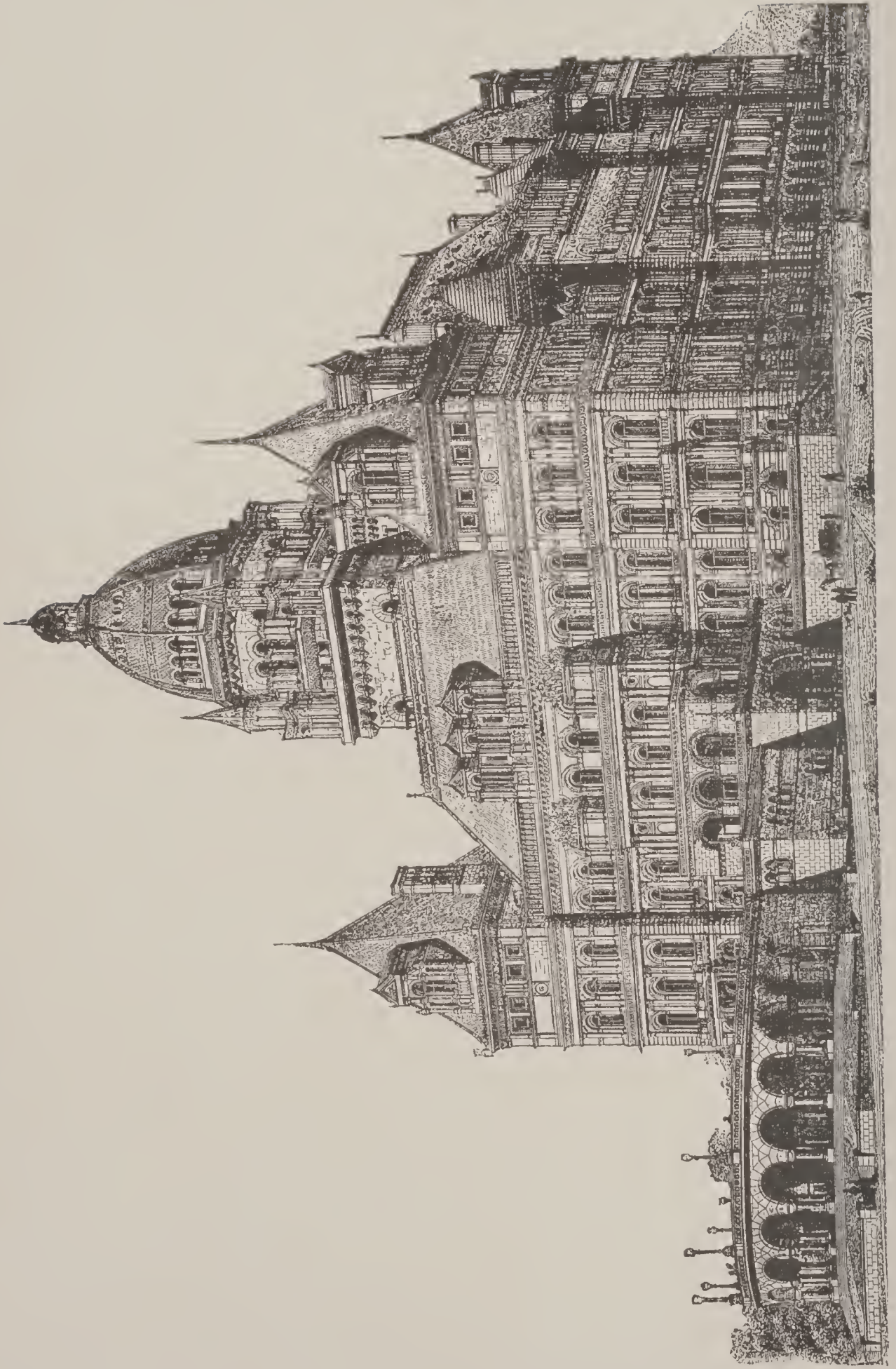
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THE NEW STATE CAPITOL, ALBANY, N. Y.

PRINCIPLES  
OF  
CIVIL GOVERNMENT

*Exemplified in the Government*

OF THE  
STATE OF NEW YORK

BY  
EMERSON W. KEYES  
COUNSELLOR AT LAW



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## PREFACE.



THE contents of this book are not to be learned by heart as one learns the multiplication table. Some things must be learned in that way; Civil Government is not one of them. This branch of study is not merely so many facts to be learned and remembered in set formulas of words, but certain principles to be comprehended, of which the facts are the expression or illustration. It is a principle in the administration of government that there must be an officer charged with the duty, and invested with the power, of collecting and enforcing the payment of taxes. Whether he shall be styled a collector, or a receiver of taxes, or whether the duties and powers of such office shall be imposed upon some other officer having related duties, as the treasurer, is a mere detail of fact, of subordinate importance. The fact is liable to change at any time; the principle will abide — there will at all times be *somebody*, by whatever title known, charged with the duty of seeing that the taxes are paid.

In this view, this work may be as acceptable and as useful in other states as in New York. Knowledge concerning the government of New York must have value everywhere. The details of government in each state may, perhaps, be all the

more effectively taught, when brought in comparison with those of another state.

When a pupil thoroughly grasps a principle, he will look for, and if need be, will find, the facts to fit it; or if these be presented to him, he will seize upon them as the natural or necessary complement of the principle which has already found lodgment in his mind. The two must go together; but herein precedence is given to principles which the facts exemplify.

This treatment of the subject calls for less remembering, but for more thinking. If the thinking be well done, the remembering will take care of itself. Memory never fails with those who think. But thinking is naught with those who can do nothing but remember. The one thing needful in our schools is that the pupils be got out of the rut of merely remembering, and be induced to try their powers in the broad field of thought.

To effect this, we must have teachers who can do something besides listen. They must know how to think and how to teach others to think. They must know—or must be able to *learn*—something outside of the text-book. No text-book can contain all that should be taught of a given subject.

The author believes that the efforts which have been made within the last few years by public school authorities, and what is more important, by the teachers themselves, to raise the professional standard of teaching, have been fruitful in good results. Hence he submits to them this work in full confidence that they will discern and apply what is useful in it; and will supplement with their own intelligence and

research whatever has been omitted which to them seems of importance. Two books, which ought to be in every school district library accessible to teachers for reference, are commended to their consideration. They are the Legislative Manual and the Civil List. These are not text-books in any sense, but are full of useful information relating to the government and affairs of this state. Though prepared for legislators and public officers, they are useful for everybody, and can probably be procured from the Albany publishers.

Upon Brooklyn teachers I do not need to urge the free use of the Eagle Almanac, which is upon the book-list of Brooklyn schools. The limitations imposed in the preparation of the text of this work permitted only the most general discussion of the principles of municipal organization. These must be supplemented in each locality by local sources of information. It would be a great convenience if every city, through its authorities, or at the instance of private enterprise, were furnished with a manual containing all the facts of interest concerning its government and affairs, after the style of the Brooklyn annual above referred to.

Let me here acknowledge my obligation to the City Superintendents of schools in the state, who favored me with valuable information concerning the municipal organization of their respective cities. Their aid was invaluable in the preparation of the chapter upon cities. I regret that I was unable to make as free use of the material furnished as I had planned; but much that I desired to insert I was constrained to omit lest the work be overloaded. Hence particulars had to give way to generalities.

IN CONCLUSION: No effort has been made to write the subject down to the comprehension of pupils in primary or lower grammar grades. When a pupil is old enough or mature enough to study civil government, he is old enough and mature enough to study it in the language in which it should be written, and with which he must familiarize himself in the practical discharge of his duties as a citizen. The meaning of new or special words he will acquire in using them, as he has acquired the chief part of his vocabulary. To facilitate his efforts, a list of definitions of the more technical words is given at the end of the book.

EMERSON W. KEYES.

27 MONROE STREET,  
BROOKLYN, N.Y., July, 1892.

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# CIVIL GOVERNMENT IN THE STATE OF NEW YORK.



## PART I.



### CHAPTER I.

#### INTRODUCTORY. — THE LAW.

“The Strength of the Law is in the Reasonableness of the Law.”

—*Old Maxim.*

It is not possible to conceive of a civilized and enlightened people existing without law. Even savage and barbarous peoples recognize some authority, in chief or council, whose mandates they obey.

**Law** is defined to be “A rule of action.” Applied to organized human society, the law consists of those rules and regulations by which its members consent to be governed, when promulgated by the agency appointed or accepted by them for that purpose.

**Object of Law.** — The primary purpose of the law is mutual protection in the enjoyment of life, liberty, and property.

**Not for the Prevention of Crime Only.** — It by no means follows that this purpose is chiefly served through

laws for the prevention of crime and the punishment of criminals. A comparatively small portion of the law relates to crimes or criminals.

**With what Matters the Law concerns itself.** — **Illustration.** — The law concerns itself, chiefly, with the rights, privileges, relations, and duties of those who have no inclination to commit crime. But human nature is fallible, and if each individual were left to his own judgment and impulses, it is quite certain that some would measure their rights and privileges without due consideration for the rights and privileges of others.

If under these conditions peace were preserved and order maintained, it could be only through the submission of the weak to the imperious will of the strong. But without law, the strong would be unable to adjust among themselves the measure of their respective rights and privileges. There is, therefore, no way by which a civilized social state can be maintained except by the authority of law.

*First.* This must be invoked to define what are the natural and just rights of every member of the social state, which no power or authority will be permitted to invade or to abridge.

*Second.* The law must not only define and fix the punishment for crimes and misdemeanors, but it must define and provide remedies against fraud and abuses of public or private trust.

*Third.* The duties of individuals in their domestic and social relations and in their business intercourse and dealings with each other must be regulated by law.

**What the Law does.** — The law promotes the welfare of all through rational restraint upon the liberty of each.

It prosecutes great public improvements which would be impossible without its intervention. It promotes industrial and commercial intercourse and exchange, through its provisions for the construction of highways, bridges, and canals ; and through its grants of corporate power for the building of railways. Its intervention makes possible the inception and development of industrial, commercial, and financial enterprises of great value to the people. It guards the public health against pestilence and contagious disease. It regards the weak, the defenceless, and the indigent as objects of its special solicitude and care. It fosters public education by large grants for the support of common schools and for higher education. These are some of the objects with which a code of laws for a great state concerns itself. The power in a constitutional government which makes the laws is known as **The Legislature**. It may bear other names, as in Great Britain the Parliament, in Massachusetts the General Court, and in the United States the Congress ; but these are all legislative bodies and constitute the Legislative departments of their respective governments.

**Law is Naught unless enforced.** — The enactment of laws would avail but little if no provision were made for their enforcement. The lawless and depraved would pursue their evil courses without restraint. The relations and interests which it is the intent of the law to promote, would find neither protection nor encouragement in volumes of laws which proved to be only so many pages of wholesome advice.

The necessity for a constituted power for the enforcement of the law is thus brought to view.

**The Executive.** — This constituted power is known as the executive, and in the several states, as also in New York, he bears the title of governor.

The governor does not go forth in person to seek out violations of the law and to enforce obedience. The sheriff of a county, even a constable in a town, may do more in the way of direct enforcement of the law than the governor himself. The governor is, however, in law and in fact the chief executive, through the power given him to suspend and to remove public officers for neglect of duty, and especially through his power to call out the militia to suppress any violent outbreak, disorder, or insurrection with which subordinate local officers are unable to cope.

**Another Power Needed.** — But with only a Legislature to enact laws and an executive and other officers to execute or enforce them, the state would still lack an essential, indeed a vital element for its peace and protection.

**Why it is Needed.** — It cannot be supposed that there would be universal agreement concerning the meaning of the law. Besides, even when the law is quite clear, there will arise questions concerning how it is to be enforced, against whom it is to be enforced, and the conditions which demand its enforcement; and the answer to them will be largely affected by the facts in any given case. For example: It is the law that if one owes he shall pay; if one has entered into an agreement, he shall live up to its terms, or pay damages for refusing to do so. But suppose that when the executive officer, prepared to enforce the law against one, comes upon the complaint of another that the former owes him money which he refuses to pay, or that he refuses to carry out



an agreement which he has made, — the party complained of denies that he owes the other any money, or sets up that the agreement in question was obtained from him by fraud which makes it void in law, what then is the officer to do?

Here is presented a situation demanding the intervention of another agency with power to adjust and determine the controversy.

These questions — What is the law? and What are the facts that call for its enforcement? — concern more people and concern them more deeply, than does the enactment of laws by the Legislature.

The necessity, therefore, for some tribunal, or system of tribunals, constituted and empowered to determine these questions, in the multitude of controversies that are sure to arise, does not seem to require further exposition here.

The agency thus constituted to expound and interpret the law, and to find the facts to which the law is to be applied, is called the **Judiciary**.

**Three Agencies of Government.** — We find then these three agencies having their defined relations and duties with respect to the laws by which a civilized and enlightened people submit themselves to be governed.

1. The Legislature, which makes the laws.
2. The Executive, which executes or enforces the laws.
3. The Judiciary, which expounds and interprets the laws, and applies them to the facts found through its instrumentality.

**Civil Government.** — This system of agencies by which law is enacted, enforced, and expounded, is what is known as Civil Government.

It may be noted here that there is a large class of officers whose agency in the government is administrative rather than executive. These and their duties will be considered later.

In despotic governments, these several powers are all vested in a supreme ruler whose decrees are the law of the realm. Ministers of state and of justice, appointed by him, execute his will and dispense justice as he directs or permits. He can enforce obedience through his army.

**Blending of Powers.** — It will also be found that there is no clearly defined line of demarkation between these agencies or departments of the government, such as would appear from our exposition thus far. At many points they cross the strict line defined by the powers and duties usually ascribed to them, and blend their functions in the practical duties of the public service.

The executive becomes an important factor in legislation through the exercise of the veto power, of which more will be learned hereafter.

He also exercises important judicial powers in granting or refusing to grant reprieves, commutations, and pardons for criminals convicted and sentenced to punishment; also, in the removal from office of those found by him to be guilty of offences which seem to justify that severe proceeding.

The Legislature exercises judicial powers in impeachments and the trial thereof; also in the examination of witnesses whom it may summon, and in punishing contempts of its authority.

The law-making power of the judiciary is considered in Chapter I., Part V.

Experience has shown that this blending of powers, to the limited extent for which it has the sanction of law, is wise and salutary. It is not in conflict with the fundamental principle of the supremacy of each department of the government within its own sphere, for the sphere of each is that defined by law. Each is forbidden to invade the prescribed domain of the other.

---

## QUESTIONS ON CHAPTER I., PART I.

NOTE.—It should be understood that all the questions in this book are only by way of hint or suggestion. The teacher will know, or should know, much better than the author can know, the kind and the number of questions required to test the pupils' knowledge of the subject.

1. What is law as applied to human society?
2. Why can there be no civil society without law?
3. What is the primary object of law?
4. Mention some of the matters with which the law concerns itself.
5. Mention some of the things accomplished through its operation.
6. By what general name is the law-making body known? Name some of its specific titles.
7. Through what department or authority is the law made effective? Give illustrations of the exercise of executive power.
8. What other agency besides the legislative and the executive is needed to make a government by law effective? Illustrate the need of this agency, from the text, or from your own experience, observation, or thought.
9. Give illustrations of the blending of legislative, executive, and judicial powers.

## CHAPTER II.

## THE STATE: PAST, PRESENT, AND FUTURE.

“What constitutes a state ?

\* \* \* \* \*

Men who their duties know,  
But know their rights, and knowing, dare maintain.

\* \* \* \* \*

And sovereign law, that state's collected will,  
O'er thrones and globes elate,  
Sits Empress, crowning good, repressing ill.”

— *Sir William Jones.*

“A thousand years scarce serve to form a state.”

— *Byron.*

OUR discussion concerns an actual, not an ideal state.

We find a mass of people spread over a large territory, engaged in various avocations yielding a livelihood, or resulting in the accumulation of wealth.

Vast and powerful agencies for the promotion of material interests are subject to their management and control.

Institutions, beneficent, educational, and religious, are formed and maintained.

Order reigns without repression of individual rights.

Justice, sometimes slow, not always absolutely sure, yet at most points ever watchful, pursues the criminal and visits upon him the penalty for his misdeeds.

The supremacy of the law is conceded and its mandates are accepted and obeyed.

These conditions did not come into being yesterday. They are the growth of centuries. From what previous conditions and experiences are they the evolution? A thousand years ago they were not. A thousand years hence they will not be the same.

What central, vital thought, what steadfast purpose, held through all the vicissitudes of the centuries past, is the inspiration and the reliance of social order as it is found to-day?

What animating spirit, what steadfast purpose, what firm conviction, held and cherished to-day, may we believe and hope will hold sway through the years and centuries to come? Is it the love of liberty? Is it belief in the possession by man of natural rights which it is the duty of governments to maintain and which they may not with impunity assail? Is it a firm conviction that these rights and their incidents are more secure under a government established by the people, and administered by agents of their own choosing? Is it respect for law? Is any one or all of these, the hope and reliance for that future which is to take its form and spirit from the social order of to-day?

To answer these questions we must know something of the inception and growth of the state; in brief, something of its history.

---

QUESTIONS ON CHAPTER II., PART I.

1. Outline some of the conditions which characterize a state.
2. What reflections do these conditions suggest?



# PART II.

## HISTORICAL SKETCH.



### CHAPTER I.

#### SETTLEMENT AND DUTCH RULE.

WHEN Henry Hudson, an English navigator in the Dutch service, in 1609 sailed up the beautiful river which now bears his name, it was with no purpose to find or found a state.

The dream of Columbus, a hundred years before, to reach the Indies by sailing due west from Europe, had been dissipated before Hudson's time. The barrier of a coast, explored north and south for thousands of miles, forbade the indulgence of that hope.

But the hope was cherished that through some of the waters opening up the interior of the continent, a passage might be found into the great ocean that washed the shores of the east.

This was the motive of Hudson's voyage.

**Commercial Enterprise Stimulated.** — Trade, not settlement, was his mission. Failing to find a new channel through which to reach the trade of the east, he dwelt upon the advantages to be derived from opening up trade with the natives of the west. Beaver and

other furs were a valuable article of merchandise in Europe, and could be secured in large quantities from the Indians in exchange for commodities, at rates that would yield a handsome profit. The merchants of Amsterdam were not slow to avail themselves of the advantages which the discoveries of Hudson revealed. Vessels were despatched to the new country for the purpose of securing this trade.

**An Agency Established.** — The business was so prosperous that it became necessary to establish an agency on Manhattan Island, to look after the interests of the traders during the intervals between the voyages.

The occupation of the country by the Dutch was in opposition to the claims of the English, but it was not until many years after that the latter sought to enforce their claim.

**Efforts of the Dutch to Make Secure their Possession.** — The Dutch were, however, apprehensive of the interference of the English, and sought to strengthen their hold upon the new country by offering exclusive and valuable privileges in trade, for a period of years, to those who would prosecute further discoveries. The scheme was successful. A large tract of country was explored and surveyed on both sides of the Hudson River, and along the Atlantic coast as far south as Delaware Bay. To the merchants who had prosecuted these discoveries, the government of the Netherlands granted a charter with liberal provisions for exclusive trade with the new country for a period of five years.

**Trade, not Settlement.** — But this again was all in the interest of trade, and not of permanent settlement. The government named its possessions in the new

world New Netherland, and the corporation of merchants was styled the "United Netherland Company."

**The West India Company.** — But in 1621 a more permanent organization was formed, under the name of the "West India Company."

Besides exclusive privileges of trade, the home government conferred upon this corporation nearly all the powers and functions of a regular government over the territory of New Netherland. The will of the corporation was made supreme. Absolute power was vested in a director-general and council appointed by the company.

Such was the inception of government in this state. The director-general was in fact the government, for the council were submissive to his will. It was practically an absolute monarchy, limited only by a condition that the government should be administered according to the laws of the parent country — a condition to which little heed was given.

**First Settlement.** — Under the auspices of the West India Company, a colony of settlers was established, in 1623, on the present site of Albany, then called Fort Orange.

Headquarters were soon afterwards removed to Manhattan Island, — called New Amsterdam. A larger colony, with a larger equipment of cattle, horses, and other domestic animals, joined this settlement in 1625.

**Character of the Early Settlers.** — These first settlers in New Netherland were an honest, industrious, and religious people. They were of the same faith as the Huguenots, and were admirable material with which to found a state. Honest and sincere in their convictions, they held these with less of the spirit of bigotry and

of intolerance toward the honest convictions of others, than some of the other colonists.

**Growth of the Colony.** — The settlement increased and prospered, with such vicissitudes as were common to all the American colonies. Other settlements were established on Long Island and along the Hudson.

**Struggle for Popular Rights.** — But this growth and moderate prosperity was attained in the midst of a constant struggle between the people and the government. The former demanded representation in the council, in order that they might have a voice in the levying of taxes. This was refused.

**The Indians become Hostile.** — At length, a common peril — common alike to the West India Company and to the people — wrung from the government a concession which had been denied to the claims of right and justice. The Indians had become hostile, and committed depredations on property ; nor did they spare the lives of the settlers. The government was powerless.

**A Council of the People.** — In this extremity Director Kieft, in 1641, invited the citizens to meet and consider measures for defence. This was the first Assembly of the people looking toward a participation in the councils of the government. It was a concession, by the authorities, of the fact that the government might be stronger with the aid and support of the people than without them. The Assembly met and appointed “twelve selectmen” to represent them in advising with the director-general. This advisory council met on the following day and declared in favor of war against the Indians. But obstacles intervened which postponed actual hostilities. In the following year the council of



twelve men again met, and formally demanded participation in the government. This was refused, and shortly after the council was abolished by the director.

**The Council of Eight Men.** — But in 1643 the stress of war again induced the director-general to call another Assembly of the people, to appoint another council. The Assembly met and appointed a “council of eight men” to consider and take action in the emergency. The peril to the colony had become very great. The council met and proceeded with vigor. In their extremity they sought and in a measure secured the cooperation of the English colonists, who were of course exposed to like perils with themselves. Here was the germ of that union which had fruitful results in after times.

**An Appeal to the Home Government.** — The council further appealed to the home government against the tyranny of the director, and for a share in the government. Their demands were complied with to the extent only of the recall of Kieft, who was succeeded by Stuyvesant.

**Stuyvesant’s Rule — “Council of Nine Men.”** — Stuyvesant inaugurated his administration with considerable vigor. Elections were held in the different settlements near New Amsterdam, to choose eighteen men, from whom the director selected nine to hold Courts of Arbitration, and to advise the director and council on all matters “*that might be submitted to them.*” This was the first inferior court established in this state. The council of nine men could also refuse their consent to the levy of taxes for purposes which they did not approve. This was clearly an advance in the direction of popular rights.



But these concessions were grudgingly made, and the director, at every point, opposed the demands of the council of nine for larger powers to be vested in the hands of the people.

**Another Appeal to the Home Government.**— An appeal to the home government again brought partial relief. And thus the struggle went on. It is impossible here to recount its incidents. Our purpose is only to note briefly the growth and progress and ultimate triumph of the spirit of liberty.

---

#### QUESTIONS ON CHAPTER I., PART II.

1. What was the purpose of Hudson's voyage to America? What was its result?
2. What was the motive of the voyages of the Dutch merchants upon the disclosure of Hudson's discoveries?
3. When was the West India Company formed? What powers were conferred upon it? What settlements were made under it?
4. What names were given to the new country, and to the new settlement, by the Dutch?
5. What constituted the government of the colony under the West India Company?
6. Describe the nature of the conflict between the colonists and the government.
7. When was the first assembly of the people called? By whom? For what purpose? With what result?
8. When and for what purpose was the second assembly of the people called?
9. What was the effect of an appeal to the home government for the exercise of larger powers by the people?
10. Character and effect of Stuyvesant's rule.

## CHAPTER II.

## ENGLISH RULE.

**Under the Duke of York.** — In 1664 the English enforced their claim to the territory and took possession of the country. The Duke of York, to whom the country had been ceded by his brother King Charles II., was practically the head of the new government, with powers as absolute as those of the late West India Company.

The change was at first not altogether distasteful to the colonists, who had become restive under the tyrannical sway of Stuyvesant, and the denial of their rights by the West India Company and the home authorities. New Netherland and New Amsterdam were superseded by New York.

**No Gain for Liberty by the Change of Rulers.** — As might have been anticipated, however, very little was gained for liberty and popular government by this change of rulers. The English governors, one after another, all brought with them from England, English notions of the relations between the governing power and the governed classes. The former was a consecrated investiture; the latter were, or should be, its humble and obedient worshipers.

**The Struggle Renewed.** — Taxes were levied upon the people without authority of law. Appeals and pro-

tests were unheeded, or scornfully rejected. Repeated demands by the people for a popular Legislative Assembly were refused. In response to one of these, the Duke of York wrote to Governor Andros that "popular assemblages were dangerous to government, and that he saw no use for them." This illustrates the spirit of the government over the colony in that day.

**The Resistance of the People Rewarded.** — At length, however, the opposition of the people became so pronounced that the Duke of York, apprehensive of loss to his revenues from the colony, sent out as governor Thomas Dongan, with authority to convene a General Assembly. This assembly convened in 1683. Thus, after seventy years of conflict, the colony seemed upon the point of gaining its right to choose its own rulers and to frame its own laws.

**A Memorable Proceeding.** — The first act of this first General Assembly of the Colony of New York was entitled "Charter of Liberties and Privileges granted by His Royal Highness to the Inhabitants of New York and its Dependencies." It vested supreme legislative power in the governor, council, and the "*People met in General Assembly.*" The charter defined in clear and compact terms the rights and privileges of the people. In its way, and for the time, it was as memorable an instrument as the Declaration of Independence, which came some ninety years later. It concluded with these words: "No person professing faith in God by Jesus Christ, shall at any time be anyways disquieted or questioned for any difference of opinion."

**Under the King of England. — The Assembly Abolished.** — In 1685 the Duke of York became King of

England, under the title of James II. Within a year and six months after his accession to the throne, he, as king, abolished the Assembly, which, as Duke of York, he had authorized. He sought to undo in all the colonies all that had been done for liberty and progress. He prohibited the use of printing-presses, forbade town meetings, discouraged the continuance of public schools, — that nursery of foes to despotism, — levied oppressive taxes, and restored all the abuses in government of which the people had complained.

**The Assembly Re-established.** — William and Mary ascended the throne in 1688. In 1691 Governor Sloughter arrived in the colony with authority to re-establish the Assembly. This was done, and the Assembly convened in that year and substantially re-enacted the Charter of Liberties adopted by the Assembly of 1683. It was, however, rejected by the king in 1697.

**The People hold their Own — at last.** — From this time forward, the right of the people to maintain a General Assembly was not disputed. The last session of the last General Assembly was held April, 1775 — during the period of transition from colonial dependence to national independence.

During all this period of more than eighty years, a conflict was waged between the governor and council representing the king, on the one hand, and the General Assembly representing the people, on the other, concerning their respective powers and prerogatives in the administration of the government.

**Character of the Conflict.** — The essence of the conflict is revealed in the reply of Governor Fletcher to a demand of the General Assembly that he should account



for the expenditure by him of the taxes and revenues. He refused, saying that it was the business of the Assembly to raise money, and of the governor and council to expend it.

**Incidents of the Conflict.** — The Assembly refused to pass revenue bills for the crown for a longer period than two years; the council amended by making it for five years, and the governor demanded that a revenue be settled upon the crown for life. This was refused, but at one time a compromise was reached, on five years, in return for some concession by the king. The Assembly denied the right of the council to amend money bills.

The Assembly protested against the right of the governor, under commission from the crown, to appoint judges, justices of the peace, and other judicial officers, claiming that it was the prerogative of the Assembly, and not of the king, to establish courts of justice.

The usual appropriations for the support of the colonial government were for two years, but in 1737 the Assembly limited the appropriations to one year, and in the acts specified what sums were to be expended for certain services, and fixed the salaries of certain officers by name, thereby asserting its right to dispose of the public moneys, and to nominate officers of the government.

**Despotic Powers exercised by the Governor.** — The governor had absolute power to veto any act of the Assembly, but this availed little, as it was powerless to secure the passage of such bills as he would be glad to approve. He dissolved Assembly after Assembly, but each was succeeded by another which as stubbornly maintained the rights of the people and its own prerogatives, as its predecessors had done.



**Colonial Unions.** — Prior to 1764, temporary unions between the colonies had been formed for the purpose of mutual defence against the Indians, or to form compacts with them for the maintenance of peace.

But the first movement for a union of the colonies to resist the aggressions of the crown, was instigated by the New York General Assembly in 1764. A committee was appointed . . . “to correspond with the Assemblies of other colonies, relative to the oppressive commercial legislation of Parliament,” and also “on the subject of the impending dangers which threaten the colonies by being taxed by laws to be passed in Great Britain.” In pursuance of this movement for a conference, and of similar action on part of the General Court of Massachusetts in 1765, a conference was held at New York in October of that year, at which the colonies of Massachusetts, Connecticut, Rhode Island, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, and New York were represented.

This, though styled a conference, was the *First Colonial Congress in America*.

The conference agreed upon a declaration of “rights and grievances” addressed to the people of England and America, in which the right of the colonies to tax themselves, the right of trial by jury, and the right of petition, were urgently set forth. It also adopted a petition to the king, and another to Parliament. Doubtless the passage by Parliament of the odious “Stamp Act,” which had inflamed the country, and which was to go into effect in November, lent force and fervor to these appeals. The New York Assembly, in November, ratified the proceedings of the Colonial Conference.

**The Stamp Act.** — Owing to the violent opposition of the colonists, and the retaliatory measures of the merchants of New York, Philadelphia, and Boston, in refusing to purchase goods from Great Britain, the Stamp Act was repealed early in 1766. But its repeal was accompanied by a declaration that "*the Parliament had the right to bind the colonies in all cases whatsoever.*" This did not suit the colonists, who stood for principle.

**Divisions among the People.** — But divisions arose among the people as to the policy to be pursued. Some were for peace, others for suspension of trade, others for a union of all the colonies against the aggressions of the home government. They were well styled the Party of Peace, the Party of Action, and the Party of Union.

**An Assembly Indifferent to the Will of the People.** — Through these divisions, a General Assembly was elected in 1669, less aggressive in its hostility to the government of Great Britain than its predecessors had been. Under the pretence of duty to the crown, it voted supplies to the British troops stationed at New York. This roused fierce indignation, and a circular was issued denouncing the Assembly for its disloyalty to the people.

**The Crisis at Hand.** — Affairs were approaching a crisis. The vindictive measures of the Parliament, against Boston, aroused the loyal sentiment of the country. The merchants of New York organized a committee of fifty-one to voice the sentiment of the people, to urge concert of action and the calling of a general congress of the colonies.

**Another Colonial Congress Called.** — Boston called the Congress, which convened in Philadelphia, in September, 1774. Eleven colonies were represented. *This was the Second Colonial Congress.*

The people of New York were now thoroughly united, but the Royalists in the Assembly refused to hear their voice. There were true and loyal men in it, but as a body, it had no part in the patriotic movements of the time. On the 3d of April, 1775, it ceased to be — and it had no successor. A new order of things was now entered upon.

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#### QUESTIONS ON CHAPTER II., PART II.

1. When and under whom did the English take possession of the colony?
2. State some of the characteristics of the English rule.
3. What, finally, was effected through the continued resistance of the people to the tyranny of the government?
4. What was the effect upon the colony of the accession of the Duke of York to the throne of England?
5. Under whose reign and under what governor was the General Assembly re-established?
6. What was the duration of this grant of an Assembly?
7. Did the colony through its Assembly secure all the rights and privileges claimed by it?
8. Describe the nature of the conflict between the Assembly and the governor and council.
9. When was the first colonial conference held? By whom was it first suggested? What was its object? What did it accomplish?
10. Give an account of the General Assembly of the colony, elected in 1669.
11. What crisis in the affairs of the colony and of all the American colonies was then approaching?
12. Describe the spirit of the people toward this Assembly during this period.

## CHAPTER III.

## GOVERNMENT BY THE PEOPLE.

**The People take the Government into their Own Hands.**

—The business of government was now taken up by the people. Delegates (deputies) were chosen to a Provincial Convention, called for the purpose of choosing representatives to the third Colonial Congress — or as it came to be known — the first Continental Congress. The Convention met in New York City on the 20th of April, elected delegates to the Congress, and having transacted the business for which it was convened, dissolved.

**Lexington. — War at Last!** — News of the battle of Lexington soon followed. “The war had actually begun!” A provincial war committee of one hundred leading citizens was organized. This committee urged the election by the people of delegates to a Provincial Congress of the colony. This was done. The Congress convened in New York on the 22d of May, 1775. This Congress ratified the acts of the Provincial Convention in choosing delegates to the Continental Congress, which thereby became, in effect, the first act of the independent colony.

**Provincial Congresses.** — Thereafter, these Congresses became regular legislative bodies for the colony. The fourth Congress first met at White Plains, July 9, 1776, when the Declaration of Independence, adopted by the



Continental Congress, was unanimously agreed to.<sup>1</sup> The title of the body was changed from Provincial Congress of the Colony of New York to The Convention of the Representatives of the state of New York. After several sessions, at brief intervals, in different places, it finally convened at Kingston, on the 6th of March, 1777, framed and adopted the first Constitution of the State of New York, April 20, and dissolved May 13. Thus was constitutional government inaugurated in the state of New York.

**The Constitution of 1777.** — This Constitution will repay careful perusal and study. It incorporated the Declaration of Independence in full. Some of its provisions are considered in the discussion of other topics. Its distribution of the powers of the government, and the organization of two branches of the Legislature and some other features remain unchanged.

The governor, the chancellor, and the judges of the supreme court were constituted a council to revise all bills passed by the two houses, and to return such as they did not approve. If again passed, by a two-thirds vote of each house, the bill became a law. It was the veto power, exercised by a council instead of by the executive alone.

A council was provided for, with power to appoint all officers whose appointment was not otherwise directed in the Constitution. A *property* qualification for voters

<sup>1</sup> On the 9th of July of the current year (1892), the 116th anniversary of this adoption of the Declaration of Independence by the Provincial Congress, was celebrated, with great enthusiasm, on the site of that memorable transaction, at White Plains, under the auspices of the Society of the Sons of the Revolution.



was prescribed, except in the cities of New York and Albany. The only officers to be elected by ballot were the governor and lieutenant-governor; but the Legislature, after the war, might extend the system to the election of other officers. These were some of the distinguishing features of the first Constitution.

Under this Constitution, and the laws made in pursuance thereof, the exigencies of the war were met, and it continued in force, with slight amendment, until a new Constitution was adopted and ratified by the people in 1822.

**The Constitution of 1822.**—By this instrument the Council of Revision and the Council of Appointment were abolished. In lieu of the former, the governor was invested with the power to veto bills that did not meet his approval. Instead of the latter, a few offices were made elective:—sheriffs, county clerks, and coroners; others were to be filled by appointment of local authorities, and others by the governor and Senate. The secretary of state, comptroller, treasurer, attorney-general, surveyor-general, and commissary-general, were to be chosen by the Senate and Assembly, in the manner in which United States senators are now chosen. Mayors of cities were to be appointed by the common council—but this was amended as to New York, in 1833, and as to all other cities in 1839, when they were made elective by the people. A very cumbersome system was devised for the appointment of justices of the peace by the boards of supervisors and the county judges, but this was amended in 1826, and the office made elective. District attorneys were to be appointed by the county courts. The payment of a

tax was substituted for the property qualification of voters made by the first Constitution, but this condition was removed by amendment in 1826. A property qualification was, however, imposed upon colored citizens, and this was not removed.

Other features of the Constitution of 1777 were omitted, or more or less modified, but the above sufficiently indicates the character of the changes made; and these, with the amendments noted, indicate the steady growth of a sentiment favorable to the exercise of larger powers by the people.

**The Constitution of 1846.** — This instrument was prepared by a convention of men that had faith in the people. They not only had faith that their work would be approved, but they had also an abiding faith that the people could, with safety to the state, be intrusted with the larger powers conceded to them by the new Constitution. The result justified their faith. The Constitution was ratified by a majority of 129,092 in a poll of 313,964 votes.

It made radical changes in the fundamental law. Nearly all the offices that had previously been appointive were now made elective. Among others, were the judges of the various courts. This was regarded, as indeed it was, a great innovation, and by many it was looked upon with grave distrust. But it has stood the test of nearly fifty years' trial, and is satisfactory to the people. So late as 1873, they refused, by a majority of more than 200,000 votes, to relinquish their right to elect judges.

The court of errors (comprising the Senate, the chancellor and judges of the supreme court) was abolished,

and a court of appeals constituted to take its place. The court of chancery was also abolished, and jurisdiction in both equity and law was conferred on the supreme court. The Legislature was required, at its first session thereafter, to provide for the appointment of commissioners to simplify and abridge the rules of practice and pleading in courts of record, and to report the same to the Legislature for adoption.

The above are sufficient as an indication of the character of the changes wrought by this instrument, which is substantially in force to this day. Some changes in the judiciary system have been made, and some restrictions upon the power of the Legislature and of municipal corporations have been added, but nothing which impairs the plan or general character of this Constitution of 1846. Reference to many of its provisions will be found under other topics.

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### QUESTIONS RELATING TO CHAPTER III.

1. What was the first act of the independent colony of New York?
2. What important action was taken by the Provisional Congress of New York on the 9th of July, 1776?
3. To what name was "Provincial Congress," etc., changed?
4. Give the date of the adoption, and some of the leading features, of the first Constitution of the state.
5. Give the date of the adoption of the second Constitution, and some of the changes wrought by it. Also, some of its distinguishing features, and in what respects these were amended.
6. State what ideas you gain from the text concerning the character of the Constitution adopted in 1846.

# PART III.

## THE STATE GOVERNMENT.



### PRELIMINARY.

THIS comprises the following departments :—

Legislative,  
Executive,  
Administrative,  
Judicial.

The administrative functions of certain officers of the government are not regarded by most writers as entitled to a separate classification. It is believed, however, that, for the purposes of this discussion, precision of statement and clearness of understanding will be promoted by assigning to them a distinctive nomenclature.

The order of these functions of government might with propriety be changed, the judicial having precedence over the executive. But usage has sanctioned the order as above given, and besides, convenience is promoted by considering the legislative and executive departments in close connection.

## CHAPTER I.

## THE LEGISLATIVE DEPARTMENT.

THE power to enact laws is vested in a **Legislature.** — This is composed of a Senate and an Assembly. In all legislation they have equal and co-ordinate powers. The Legislature convenes each year on the first Tuesday in January.

**Disqualifications for Membership.** — No person is eligible to the Legislature, who at the time of his election is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or an officer under any city government. The acceptance by a person elected to the Legislature, of any such office, vacates his seat in the Legislature. No member of the Legislature shall receive any civil appointment, within this state, or to the Senate of the United States, from the governor, the governor and Senate, or from the Legislature, or from any city government during the time for which he was elected.

**Limitation of the Powers of the Legislature.** — The Constitution imposes certain limitations on the Legislature, concerning both the mode of transacting its business, and the enactment of laws. Among the former may be cited the following: —

1. A majority of each house is required to constitute a quorum, and on the passage of an act imposing a tax,



and for certain other purposes, three-fifths of the members of either house are required for a quorum.

2. The assent of two-thirds of the members elected to each house is required for the passage of any bill appropriating the public moneys or property, for local or private purposes, or to pass a bill over the veto of the governor.

3. Each house is required to keep a journal of its proceedings, and to publish the same, except such parts as may require secrecy; and also to sit with open doors except when the public welfare may require secrecy.

4. Neither house can, without the consent of the other, adjourn for more than two days.

5. The enacting clause of every bill must be as follows: "The people of the State of New York, represented in Senate and Assembly, do enact as follows."

6. No bill can be passed without the assent of a majority of all the members elected to each house; and the question upon the final passage of a bill must be taken immediately upon its last reading, and the yeas and nays thereon must be entered on the journal.

7. In order that any existing law may become part of an act, it must be inserted in such act; it is not enough to refer to such law.

8. Any law which imposes a tax must distinctly state the tax, and the object to which it is to be applied.

Such are the chief limitations upon the Legislature in the order of its business.

**Restrictions upon the Passage of Laws.**—The more important limitations upon the power of the Legislature in the enactment of laws are the following:—

1. No law may be passed that shall abridge the liberty of speech, or of the press, nor the right of the people peaceably to assemble and to petition any department of the government.

2. The Legislature cannot grant a divorce, nor authorize any lottery, nor shall the sale of lottery tickets be allowed within this state.

3. The Legislature cannot provide for elections otherwise than by ballot, except for town officers.

4. Members of the Assembly must be chosen by districts; no county can be deprived of representation in the Assembly (Hamilton County having its representation jointly with Fulton).

5. No new county can be erected by the Legislature unless its population would entitle it to a member.

6. No county, unless entitled to two or more senators, can be divided in the formation of senatorial districts, and these must be composed of contiguous territory, and contain, as nearly as may be, an equal number of inhabitants, exclusive of aliens, etc.; nor shall an Assembly district be divided in the formation of a Senate district.

7. The Legislature is prohibited from passing private or local bills in some thirteen enumerated cases.

8. The Legislature cannot admit any private claim against the state, nor grant any extra compensation to any public officer or contractor. (This last prohibition applies also to the common council of a city, and to boards of supervisors.)

The foregoing do not by any means embrace all the restrictions imposed by the Constitution upon the action of the Legislature.

**The Legislature required to pass Certain Laws.** — But the Constitution does not stop with a limitation of the powers of the Legislature in the enactment of laws. It goes further, and makes the enactment of laws for certain objects and purposes obligatory. Thus, it declares that laws shall be made for ascertaining, by proper proofs, what citizens are entitled to the right of suffrage. These are the laws relating to the registration of voters. The Legislature is also directed to pass general laws for objects and purposes for which special laws are forbidden. Many other instances might be cited, but these will suffice for illustration.

Amongst the duties of the Legislature is the apportionment of the Senate and Assembly districts in the state, after each state enumeration of the inhabitants, subject to the limitations already pointed out. (See p. 41.) The Senate districts are numbered consecutively from I to XXXII. Where a Senate district comprises one or more counties, the Legislature, in the apportionment law, names the county or counties that shall compose the district. Where one county is entitled to more than one Senate district, the Legislature names the districts, by numbers, which the county shall comprise, and it may define the boundaries of each, or may delegate this power to the supervisors of the county. The Legislature assigns to each county the number of members of Assembly to which it is found to be entitled, and when any county is entitled to more than one member, the boundaries of the districts from which they shall be elected are fixed by the board of supervisors.

It is also the duty of the Legislature to reapportion the districts in the state, from which representatives

in Congress are elected, after each apportionment of representatives by Congress, and the judicial districts after each state enumeration of the inhabitants.

**The Senate.** — This branch of the Legislature is composed of thirty-two senators, one being chosen in each of the thirty-two Senate districts into which the state is divided. As they are all elected on the same day, for a term of two years, their terms all expire at the same time.

The presiding officer of the Senate is the lieutenant-governor. He has only a casting vote upon motions, orders, resolutions, and other like questions. Upon the passage of a bill he can have no vote. In the absence of the lieutenant-governor the Senate may choose a temporary president from its members.

The Senate, with the judges of the court of appeals, constitutes the court for the trial of impeachments.

The laws provide for the appointment of many officers by the governor, "by and with the advice and consent of the Senate." The "advice" is of little account. The "consent" is the main thing. If consent is given the appointment is said to be confirmed. If consent is refused there is no appointment.

The Senate acts concurrently with the Assembly, in the first instance, in the election of United States senators, and regents of the University. If the two houses are found to have agreed in their choice, the person named by each is declared elected. The fact of agreement or disagreement is ascertained at a joint session of the two houses convened for that purpose. If they are found to have disagreed in their choice, the joint body proceeds to ballot, and the candidate receiving a majority of all the votes cast is declared elected.



In the election of a state superintendent of public instruction, the houses meet in joint session, without any previous and separate action, except in party caucus. The candidate receiving a majority of all the votes cast is declared elected.

**The Assembly** is composed of one hundred and twenty-eight members, chosen annually in the districts formed as set forth on pages 41, 42.

The presiding officer of the Assembly is called the speaker. He is chosen by the members from their own number. The speaker loses none of his rights as a member. He may vote upon all questions before the House, but under the rules he is not required to vote except when his vote would be decisive.

The Assembly has the power of impeachment by the vote of a majority of all the members elected.

**Legislation in General.** — Very much of the preliminary work of legislation in both houses is done by committees. Upon the organization of each house, committees are appointed upon all of the leading subjects which are likely to engage the attention of the Legislature. These committees, called standing committees, are fixed by the rules of the House. They are appointed, in the Assembly, by the speaker, and in the Senate, by the lieutenant-governor, except when the majority of the Senate is opposed to him in politics. In that case the political majority in the Senate will make up the committees.

When a bill is introduced it is referred to the committee having charge of the subject to which the bill relates. If a question arises as to what committee should have charge of a bill, it is determined by a vote of the House, upon a motion to refer it to a certain committee.



It is the duty of each committee to consider and report, without unnecessary delay, upon the bills or other matters referred to it, so that they may be put upon the order for their passage.

**The Committee of the Whole House.**— This is more briefly styled “Committee of the Whole.” It consists of all the members, or of a quorum of members, presided over by a member whom the speaker calls to the chair for that purpose. When formed, it enters upon the consideration of bills in the order which the rules require. None of the acts done in committee are, or can be final. It cannot pass bills, it can only report upon them. It can agree upon amendments, but only to report them to the House when regularly in session. It cannot adjourn, it can only rise, report progress, and, if its work is not concluded, ask leave to sit again. The House can grant or refuse leave, but leave is usually granted. Then, when the proper time comes, upon a future day, the House may again resolve itself into a committee of the whole, and resume consideration of the bill. Or the committee may, when it rises, report the bill amended or otherwise, and recommend its passage, or report unfavorably upon it.

When the committee rises, the speaker resumes the chair, and the chairman makes his report of what has been done in committee. The House agrees or disagrees with the report, the same as upon the report of a standing committee.

The work of legislation is greatly facilitated by the division of labor thus secured through its committees. Indeed, legislation would hardly be possible without the aid which is given through such a system of organization.

## CHAPTER II.

## THE EXECUTIVE DEPARTMENT.

THE Constitution provides that "The executive power shall be vested in a governor." This, of course, means the executive power of the state, for there are local executive offices in the various subdivisions of the state; yet over these he exercises a degree of control.

The governor and lieutenant-governor are elected at the same time and for the same term, three years.

Each of these officers must be a citizen of the United States, thirty years of age, and, for five years previous to his election, a resident of this state.

The lieutenant-governor has no executive functions, except when he is called upon to take the place of the governor, or as a member of certain official boards having executive powers.

The distinctively executive feature of the governor's authority is as commander-in-chief of the military and naval forces of the state, — and in the requirement that "He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws be faithfully executed."

His power, under the Constitution, to grant reprieves, commutations, and pardons, as also his power, under the law, to remove certain officers for neglect of duty or other offences, is more judicial than executive. The

requirement that he shall communicate to the Legislature by message, and recommend to them such matters as he shall deem expedient ; his power to prevent the passage of a bill by his veto, — unless passed by two-thirds of the members present in each house after it has been returned by him to the house in which it originated ; and his power to convene the Legislature in extra session, are all in the direction of promoting or retarding legislation, hence, are more legislative than executive in their character.

The appointment by him of public officers, in conjunction with the Senate, or otherwise, may be regarded as an executive function, for through these officers the laws are to be executed or administered.

Vacancies occurring in state, and in some local or county offices, are filled by the governor for the time being. If such offices are elective, the appointment is for not longer than until the commencement of the political year next succeeding the first annual election after the happening of the vacancy. If the vacancy occurs in an office filled by the governor and Senate, and during a recess in the Senate, the appointment must be sent to the Senate for confirmation within twenty days after it convenes. A vacancy in the office of United States Senator occurring when the Legislature is not in session, is filled by appointment of the governor until after the Legislature meets, when the vacancy will be filled by that body for the unexpired term.

Vacancies in the court of appeals, in the supreme court, or in the superior city courts, are filled, for a full term, at the next general election happening not

less than three months after the vacancy occurs, and until so filled the governor and Senate may appoint to such vacancy if the Senate shall be in session ; if otherwise, the governor alone may appoint. Such appointment shall continue until the last day of December next after the election at which the vacancy shall be filled.

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#### QUESTIONS RELATING TO CHAPTER I.

1. What circumstances will disqualify a person for election to the Legislature?
2. By what and in what particulars are the powers of a Legislature limited?
3. What duties are imposed upon a Legislature, and by what authority?
4. Which body has the greater power — the Senate or the Assembly?
5. What is the difference between concurrent action and joint action by the Senate and Assembly? Name important officers chosen in each way.
6. Why can the lieutenant-governor have no vote upon the passage of bills?
7. What service do committees render in legislation? By whom are committees appointed in each house?
8. Give some idea of the Committee of the Whole.

#### QUESTIONS RELATING TO CHAPTER II.

1. How does the governor execute the laws?
2. What are his duties concerning the Legislature?
3. What judicial powers does he exercise?
4. Glance over the list of administrative officers in the next chapter, and gain and express some idea of his responsibility in making appointments.



## CHAPTER III.

### THE ADMINISTRATIVE DEPARTMENT.

THE magnitude and variety of the interests which concern the people of a great state cannot perhaps be more impressively set forth than by an enumeration of the various bureaus of the government, presided over by officers elected by the people, or appointed or designated according to law. The titles themselves, except of the state officers, will, in most cases, be significant of the duties or class of duties which the bureau has in charge; so that little, if any, further exemplification will be required. Note, then, the following:—

Secretary of State. Elected; term, two years.

Comptroller. Elected; term, two years.

Treasurer. Elected; term, two years.

Attorney-General. Elected; term, two years.

State Engineer and Surveyor. Elected; term, two years.

These are sometimes classified as executive officers, and are also called state officers, being elective by all the voters in the state. The duties of these officers will be stated at the end of this chapter. Then as follows:—

Superintendent of Public Works.

Appointed by the Governor and Senate; term, coincident with that of the Governor making the appointment.

Superintendent of Public Instruction. See Education, p. 30.

Chosen by joint ballot of the Legislature; term, three years.



Superintendent of the Banking Department.

Appointed by Governor and Senate; term, three years.

Superintendent of the Insurance Department.

Appointed by Governor and Senate; term, three years.

Superintendent of State Prisons.

Appointed by Governor and Senate; term, five years.

State Assessors (3). See p. 120.

Appointed by Governor and Senate; term, three years.

State Board of Charities.

Composed of eleven Commissioners of Charities appointed by Governor and Senate; term, eight years, and the Lieutenant-Governor, Secretary of State, Comptroller, and Attorney-General as *ex officio* members.

Board of Health.

Composed of three Commissioners of Health, appointed by Governor and Senate; term, three years, together with the Attorney-General, Health Officer of the Port of New York, and three representatives of city boards of health named by the Governor from time to time.

Railroad Commissioners (3).

Appointed by Governor and Senate; term, five years.

Commissioners of Claims (3). See p. 65.

Appointed by Governor and Senate; term, six years.

Civil Service Commissioners (3).

Appointed by Governor and Senate; term, not defined by statute.

Commissioner of Statistics of Labor.

Appointed by Governor and Senate; term, three years.

Forest Commissioners (3).

Appointed by Governor and Senate; term, three years.

State Dairy Commissioner.

Appointed by Governor and Senate; term, two years.

Factory Inspector (and Assistant).

Appointed by Governor and Senate; term, three years.

State Board of Mediation and Arbitration (3).

Appointed by Governor and Senate; term, three years.

Commissioners in Lunacy (3).

Appointed by Governor and Senate; term, six years.

Superintendent of Weights and Measures.

Appointed by Governor, Lieutenant-Governor, and Secretary of State; term, pleasure of the appointing power.

Commissioners of the State Reservation at Niagara (5).

Appointed by Governor and Senate; term, five years.

Superintendent of Public Buildings.

Appointed by Governor, Lieutenant-Governor, and Speaker, as trustees of public buildings; term, two years.

Commissioner of the New Capitol.

Appointed by Governor and Senate; term, coincident with that of the Governor making appointment.

Commissioners of Fisheries (5).

Appointed by Governor; term, at his pleasure.

State Board of Pharmacy (5).

Appointed by Governor on nomination by State Pharmaceutical Association; term, five years. Examines persons applying for licenses as pharmacists.

State Oyster Commissioner.

Appointed by one of the Fish Commissioners.

Oyster Protector.

Appointed by Oyster Commissioner.

Inspector of Gas Meters.

Appointed by Governor and Senate; term, five years.

Superintendent Onondaga Salt Springs.

Appointed by Governor and Senate; term, three years.

State Meteorological Bureau (3).

One appointed by Governor and Senate: Superintendent of Public Instruction, and Professor of Civil Engineering in Cornell University, *ex officio*.

Commissioners to Revise the Statutes (3).

Appointed by Governor and Senate; term, indefinite.

State Mining Inspector.

Appointed by Governor and Senate; term, three years.

Trustees of State Agricultural Station (10).

The Governor *ex officio*, and nine others appointed by him.

Regents of the University. See Education, p. 126.

Quarantine Commissioners (3).

Appointed by Governor and Senate; term, three years.

Port Wardens (9).

Appointed by Governor and Senate; term, three years.

Commissioners of Emigration (3).

One appointed by Governor and Senate; term, five years, and Presidents of the German and Irish Emigration Societies in New York, *ex officio*.

Health Officer. — Port of New York.

Appointed by Governor and Senate; term, two years.

Shore Inspector. — Local. — Near New York.

Appointed by Governor; term, three years.

Military Officers. — Governor's Staff.

Appointed by Governor.

Besides the above, there are several boards or commissioners composed of state officers as *ex officio* members. Such are the following: —

Board of State Canvassers.

Commissioners of the Land Office (Lieutenant-Governor and State Officers).

Trustees of Public Buildings.

Canal Board.

Commissioners of the Canal Fund.

State Board of Equalization. (See p. 120.)

#### DUTIES OF STATE OFFICERS.

**Secretary of State.** — He is the keeper of the state records. The original engrossed laws, as passed by the Legislature and signed by the governor, are filed in his office. He superintends their publication. Applications for incorporation under the general laws are filed with,

and certificates of such incorporation are issued by him. He receives and preserves the certificates of the nomination of candidates by the various parties required to be filed with him, and gives notice of these to the county clerks or other officers charged with the duty of printing the ballots. He also gives notice of general and sometimes of special elections. He is, *ex officio*, a member of many state boards elsewhere enumerated.

**The Comptroller** is the fiscal officer of the state. He is the auditor of the state accounts. The office indeed was created in 1797 to take the place of that known as auditor-general, which was abolished in that year. He manages the funds of the state, looks after their investment, and sees to the collection of the state taxes. State moneys, except from the free school fund, are paid out only on his warrant. He is, *ex officio*, a member of various state boards.

**The State Treasurer** receives all the moneys paid into the state treasury. He can pay them out only upon warrants from the proper officers. His signature is necessary to the transfer of securities deposited in the banking or in the insurance department. He is a member of several boards and commissions.

**The Attorney General** is the law officer of the state, and attends to suits brought in its behalf.

He appears in person or by his deputy, in all cases before the Board of Claims, to protect the interests of the state. He is a member of various state boards.

**State Engineer and Surveyor.** — The law requires that this officer shall be a practical engineer. He has charge of the canal engineering department and certain duties in regard to the public lands. He is a member of state boards and commissions.

## CHAPTER IV.

## THE JUDICIAL DEPARTMENT.

THE agencies through which the judicial department of the state is administered are called courts. The officers holding courts are styled judges. Code Civ. Proc., sec. 3343.

**The Judicial Problem.** — How to provide for the administration of justice for a population of more than six million people — distributed over an area of more than fifty thousand square miles, embracing thirty-four cities, and more than three hundred and fifty incorporated villages, with all the vast and diversified interests which such conditions represent, is the problem which the people of the state, through their representatives, are called upon to solve.

The following are some of the considerations which will engage attention.

Courts easy of access must be provided for the hearing of the cause of the humblest suitor, however slight the wrong for which he seeks redress, or however small the money value which he seeks to recover.

There must be courts for the trial of causes involving interests of immense value, or principles of transcendent importance.

There must be courts of limited jurisdiction in respect to the character of the issues to be tried, in



respect to the amount involved in the controversy, and in respect to the territory within which the cause of action must arise, or the parties reside.

There must also be courts whose jurisdiction shall extend over the entire state, and embrace every interest, great or small, and the trial of every issue important or trivial.

There must be courts for the trial of causes relating to property or rights, — that is, courts of civil jurisdiction; and courts for the trial of persons charged with crime, — that is, courts of criminal jurisdiction.

There must be courts for the trial of special classes of issues.

There must be courts of original jurisdiction, and courts for the correction of errors, having only appellate jurisdiction, and sometimes for those having both.

The Legislature must have power, from time to time, either to enlarge the judicial force, or to readjust it to meet the needs of a growing population, and the changes in its distribution through the formation of new centres of industry and trade along the commercial highways of the state.

How far the judicial system of the state of New York is adapted to meet these requirements will appear from what follows.

### THE COURTS OF THE STATE.

**I. Courts of Justices of the Peace,** — in each town and in certain cities and villages. Their jurisdiction is limited to civil actions in which the claim does not exceed \$200 — except in some cities, where the limit is

\$250. The actions which may or may not be brought in a justice's court are carefully defined by law. Thus, actions in which the title to real estate may come in question, and civil actions for libel, slander, and many other offences, cannot be brought in a justice's court.

2. **Courts of Special Sessions** of the peace in each town and in certain cities and villages. These are courts for the trial of minor criminal offences. They are held by the justices of the peace in the towns, and in the cities and villages in which other courts are not established for the purpose. In cities or villages where there are police justices, these courts of special sessions are held by them.

3. **District Courts in the City of New York.** — These have substantially the same jurisdiction and powers as justices' courts in towns, but the amount for which actions may be brought is \$250. In short, they are justices' courts adapted to the larger and denser population of a great city.

4. **Police Courts** in certain cities and villages. These have criminal jurisdiction only, corresponding with the courts of special sessions of the peace in towns.

5. **A Justices' Court in the City of Troy**, somewhat different in its organization from the like courts in towns, villages, or other cities, and a **Municipal Court** in the city of Rochester, furnish for these cities substantially the agencies for the administration of justice, which are furnished by justices' courts, and courts of special sessions in the towns of the state.

It thus appears that every organized community in the state — town, village, or city — is provided with a court, easy of access, for the redress of minor civil wrongs, for

the recovery of small sums claimed to be due, and for the punishment of minor offences against the public peace.

All of the courts above enumerated are inferior courts, or, as they are designated in the code, courts not of record.

**6. County Courts.**—In each county of the state, except the county of New York, there is a county court presided over by the county judge. The actions which may be brought in this court are numerous and are specifically enumerated in the statutes. Actions cannot be brought in this court for the recovery of a sum of money exceeding \$1000, or for the recovery of goods and chattels exceeding \$1000 in value.

An appeal from a judgment in a justice's court in a civil action must be taken to the county court, except in the city of Buffalo, where it is taken to the superior court of that city. Hence the county court has both original and appellate jurisdiction. In the city of New York, there being no county court, appeals from judgments in the district courts are taken to the court of common pleas.

**7. Courts of Sessions.**—These, too, are county courts, but having criminal jurisdiction only. The members of the court are the county judge, who presides, and the two justices of the sessions for the county. In this court, persons charged with the commission of the gravest crimes may be tried.

Its equivalent in the city of New York, which has no county judge, is the court of general sessions of the peace, held by the city judge, the recorder, or a judge of sessions. These may all be holding court at the same time, there being three parts of the court, each judge having, of course, the same jurisdiction and powers.

Appeals from the judgments of the courts of special sessions are brought to the court of sessions.

Thus we have in every county of the state a county court, or its equivalent, for the trial of causes, either civil or criminal, of a higher grade of importance than are committed to the lower justices' courts, or courts of special sessions, and constituting also a court of appeals for the correction of errors committed in such lower courts.

**8. The Supreme Court.** — This is the highest court of original jurisdiction in the state. It also has appellate powers, as we shall see. This court is composed of forty-six judges, styled justices of the supreme court. At the same time, it is proper to call them judges. Although there is but one supreme court for the entire state, it is not deemed advisable to have its judges chosen by the electors of the state at large. In many ways the election of the justices upon a general ticket would be found inconvenient and burdensome. The state is, therefore, divided into **eight judicial districts**. The number of justices assigned to and elected in each district is as follows: In the first judicial district seven; in second, fifth, seventh, and eighth districts, six each; and in the third, fourth, and sixth districts, five each.

Besides this division of the state into judicial districts, it is also divided into five **judicial departments**, for purposes which will appear hereafter. These departments are composed as follows: the first department comprises the first judicial district only; the second comprises the second judicial district only; the third comprises the third and fourth judicial districts; the fourth comprises the fifth and sixth judicial districts; and the fifth comprises the seventh and eighth judicial districts.



**Jurisdiction of the Supreme Court.** — The supreme court has general jurisdiction, civil and criminal, original and appellate, in law and in equity; subject only to such special limitations as are imposed upon it by the Constitution and the laws of the state.

With a court open to the hearing of every complaint, to the adjustment of every difference, to the trial of every accusation, that may come to it from a population of six million people with all their manifold pursuits and diversified interests, there will need to be a carefully adjusted plan of organization, whereby its labors and duties may be rationally distributed, and the most effective use of the powers and energies of its forty-six judges may be assured.

The business of the supreme court is transacted under the following titles: Circuit courts, courts of oyer and terminer, special terms and general terms.

These are not so many different courts, but different functions of the same court.

**A Circuit Court** is the supreme court engaged in the trial of a civil action. It is composed of a justice of the supreme court and a jury, except where issues of law only are to be tried, or where the parties, with the consent of the court, waive trial by jury and submit the issues both of law and of fact to the judge for decision.

**A Court of Oyer and Terminer** is the supreme court engaged in the trial of a criminal action.

The terms of the circuit court and court of oyer and terminer are held concurrently; that is, the presiding judge may close or adjourn the one, and, without leaving the bench, enter upon a trial or hearing in the other.



**Special Term.**— Before an issue can be ready for trial, it frequently becomes necessary to have one or more collateral questions decided. Thus, the defendant may desire to have the place of trial changed from the county in which the action has been brought, to some other county, — on the ground that the convenience of witnesses, necessary at the trial, will thereby be promoted. But whatever his reasons, they must be presented to the court, by his attorney, in the form of a motion, supported by affidavits, to change the place of trial. This is by way of illustration only, for the motions incident to, and in preparation for a trial, are limitless in number and variety.

For the hearing and deciding of these motions, a special term of the supreme court is held in each county, concurrently with the circuit court and court of oyer and terminer, and by the same judge, who will give such time to the hearing of motions as may be expedient or necessary in the interests of justice. Special terms are also appointed at other times than at the holding of circuits. In counties having large cities, special terms are appointed for every month in the year, except in vacations. In the city of New York four circuit courts and two special terms are in session at the same time.

**Judges at Chambers.**— In legal proceedings a great many motions are made which are to be granted as a matter of right. These are called *ex parte* motions, because only one side need be heard upon them. An instance would be, the application of a social club for leave to mortgage its property. These motions may be heard at special term, or by a judge at chambers. This

means out of court, at his own office, or home, at his room in a hotel or elsewhere. Special terms are often appointed to be held by the judge at his chambers, and chamber business is also transacted in connection with a special term.

The supreme court in circuit, in oyer and terminer, and at special term, acts wholly as a court of original jurisdiction. It has no appellate powers.

**The General Term.**—The appellate powers of the supreme court are vested in the general term. This is composed of three justices of the supreme court in each of the five judicial departments. One of the justices in each department is designated the presiding justice; the others, associate justices. They are designated by the governor from the entire bench of justices of the supreme court. They sit at times and places duly appointed according to law.

**Appeals are brought to the General Term** from the judgments or verdicts in the county court, or in other inferior courts when so provided by law, from the judgments or verdicts of the circuit court and oyer and terminer, and from orders made by the special term of the supreme court. The concurrence of two members of the court is necessary to pronounce a decision.

**The Times and Places** of holding circuit courts, courts of oyer and terminer, and special terms, are fixed once in two years for each judicial department, by the justices of the supreme court for the department, or a majority of them.

The times and places of holding the general terms are fixed once in two years for each judicial department, by the general term justices for the department, or a majority of them.

Still further to guard against failure in the administration of justice, the governor is authorized, whenever in his opinion the public interest requires, to appoint one or more general or special terms, or terms of a circuit court or court of oyer and terminer. He designates the time and place of holding the same, and, except of a general term, names the justice who shall preside.

**Superior City Courts.**—Besides the courts thus far enumerated, there have been constituted a number of superior city courts, with such civil and criminal jurisdiction as may be conferred by law, but limited, territorially, to the cities for which they are formed.

They are the following :—

In the city of New York,

The Court of Common Pleas.

The Superior Court.

Each of these courts has six judges, one of whom is appointed by his associates chief judge. The Legislature may provide—and has provided—for detailing any of these judges to hold circuit courts, and special terms of the supreme court in the city of New York.

In the city of Brooklyn,

The City Court of Brooklyn.

This is composed of three judges, one of whom is appointed by his associates as chief judge.

The Legislature may provide for detailing any one of these judges to hold circuit courts and special terms of the supreme court in the city of Brooklyn.

In the city of Buffalo,

The Superior Court.

This has three judges, one of whom is chief judge.

Each of the above courts has its special terms, trial terms, and general terms, and appeals may be taken from the special and trial terms to the general term, and from the general term to the court of appeals.

There are also certain **Inferior City Courts**, with such limited jurisdiction as is conferred by law. They constitute, however, an important agency in the administration of justice in their respective localities. They are all courts of record — and are the following:—

The City Court of Long Island City.

The City Court of Yonkers.

The City Court of the City of New York  
(formerly The Marine Court).

This latter court has six judges, and holds special, trial, and general terms, the last being the appellate tribunal of the court. Appeals may be taken from the judgments of its general term to the general term of the court of common pleas. The common pleas remits its decision to the city court for enforcement; but this decision may be appealed from to the court of appeals.

The Mayor's Court of the City of Hudson.

The Recorder's Court of the City of Oswego.

The Recorder's Court of the City of Utica.

The Justices' Court of the City of Albany.

The foregoing enumeration of courts in this state, with the distribution and adjustment of their powers and duties, would seem to meet every exigency in human affairs requiring adjudication by a competent and impartial authority.

**Surrogates' Courts.** — There is, however, a special branch of judicial administration which must be considered.



The estates of deceased persons, with all the incidents of their settlement and distribution to the heirs and legatees, have always been regarded as of such importance, as to require a separate and special court for their consideration. The interests and welfare of widows and orphans and generally of all persons having claims upon the estate of a deceased person, can best be cared for by a tribunal to which those interests exclusively are committed, and removed from the heat and turmoil of ordinary litigation.

The judge to whom these important and delicate interests are committed is called a surrogate. In counties with a population not exceeding forty thousand, the county judge is also surrogate. Amongst the duties of this officer, are the proving of wills, the granting of letters of administration upon the personal estate of intestates, the appointment of guardians for minor heirs, the decision of the various questions that may arise in the progress of the settlement of an estate, and conducting trials in contested cases. Appeals from his decisions lie to the general term of the supreme court, and may be carried thence to the court of appeals.

Some counties have a special county judge, and some have a special surrogate, besides the regular county judge or surrogate.

**The Court of Appeals.** — As indicated by its title, this court has appellate jurisdiction only. Appeals are brought to it from the decisions of the general term of the supreme court, and of the superior city courts.

The court is composed of a chief judge and six associate judges, chosen by the electors of the entire state, for a term of fourteen years. They are prohibited from



holding any other office. The court has the power to appoint and to remove its clerk, reporter, and other attendants.

It controls its own sessions, adjourning to such times as it deems fit and expedient.

Five judges constitute a quorum of the court, and the concurrence of four is necessary to a decision.

To relieve the court of appeals whenever there is a large accumulation of causes, a second division of the court is constituted as follows :—

Seven justices of the supreme court are designated by the governor as associate judges of the court of appeals, and to constitute a second division of the same.

This branch of the court has the same powers concerning the causes assigned to it as the original court. Five judges are necessary to a quorum and four to render a decision. When the causes upon the calendar at the time of their designation are disposed of, the judges of the court of appeals report that fact to the governor, who thereupon dissolves such second division of the court.

**The Board of Claims.** — There was, for many years in this state, a board of three canal appraisers, who were empowered to hear and adjudicate claims against the state for damages resulting from the breaking of the canal banks, overflowing the adjacent lands, or from other injuries caused by the canals of the state.

This board has been superseded by what is known as the board of claims, composed of three commissioners, appointed by the governor and Senate. Their jurisdiction is, however, more extended than was that of the

canal appraisers, as they may hear and determine the claim of any person against the state, or such as the Legislature may authorize. Appeals from its awards may be taken to the court of appeals.

**Court of Arbitration in the City of New York.** — This court was instituted upon the suggestion of the chamber of commerce of the city of New York, and is designed as an inexpensive and speedy mode of settlement of differences between the merchants of that city.

The court is composed of a single judge. Of course, causes cannot be brought before it except upon consent of both parties to a controversy. A judgment rendered in a cause submitted to the court, has, however, the same force as a judgment in the supreme court.

**Referees.** — To facilitate the trial of causes, they may, upon the stipulation of the parties, be sent to a referee to take testimony and report his findings of fact and of law to the court. When the trial of a cause will require the examination of a long account on either side, the court may, upon motion of either party, without the consent of the other, direct a trial of the issues of fact by a referee. The court may also direct a trial of some specific question of fact by a referee.

The referee has, concerning the trial of a cause referred to him, all the powers of the court.

He does not, however, render judgment, but reports his conclusions to the court, and when confirmed, it becomes a judgment of the court, and like all judgments is subject to appeal, or to a motion for a new trial.

The state superintendent of public instruction has important judicial powers in relation to school contro-

versies, which will be found set forth in the chapter on education, p. 131.

**The Grand Jury.** — A grand jury is a body of men, not less than sixteen nor more than twenty-three, chosen by lot, and sworn to inquire concerning crimes committed or triable in the county from which the jurors are drawn, and present them to the court. This is done by a bill of indictment, sometimes called a "true bill." The technical definition of an indictment is: "An accusation in writing, presented by a grand jury to a competent court, charging a person with a crime." No person accused of a crime can be tried in the court of sessions, or the oyer and terminer, until an indictment has been found against him. The grand jury is formed by drawing from a list of three hundred persons, furnished by the supervisors of the county, in New York thirty-six, and in other counties twenty-four names of persons to serve at the session of the court for which they are called. They are also required to inquire into the condition and management of the public prisons in the county, and into wilful and corrupt misconduct in office. Their adverse conclusions concerning these or other matters they submit to the court in the form of a presentment. Their sessions are private, except as they may invite the presence of the district attorney. The jury is not bound to hear evidence for the accused, but may do so when they have reason to believe that such evidence will explain away the charge. An indictment should be found when all the evidence before the jury, taken together, would, if unexplained or uncontradicted, warrant a conviction. A majority of the jury is sufficient to find an indictment.

**Trial Jury.** — This, in a justices' court, consists of six persons. In the higher courts it is composed of twelve persons.

Not less than fourteen nor more than twenty days before each term of a court at which issues are triable by a jury, the county clerk must, in the presence of officers designated by law, draw from a list of names prepared once in three years by the supervisor, town clerk, and assessors of each town, the names of thirty-six persons or any additional number required by law, to serve as trial jurors at the time. In the city and county of New York, and in the county of Kings, the duty of preparing the jury lists is committed to an officer called a commissioner of jurors, who also performs many other important and responsible duties in connection with the drawing of juries. The number of jurors to be drawn for any term of a court, in either of these counties, is fixed by an order of the court. A person drawn as a juror must attend, unless exempt under the provisions of the law, or unless for satisfactory reasons he is excused by the court. It is an instance of "the office seeking the man." From the jurors drawn and attending the court, the clerk of the court draws from a box, containing their names, twelve names of persons to serve as jurors upon the trial of a cause. If a cause is called while the first jury is deliberating upon a verdict, a second jury is drawn in like manner. Unless all the jurors agree in a verdict, a new trial must be had.

**A Struck Jury.** — Where, upon motion of a party to an action, it is made to appear to the satisfaction of the court that a fair and impartial trial cannot be had before a jury drawn in the ordinary way, or that the impor-



tance or intricacy of the case demands a jury drawn in another way, an order is made, directing a special jury to be struck for the trial of the issue. Such a jury is obtained in the following manner: In the presence of the parties, the county clerk, or in New York or Kings Counties, the commissioner of jurors selects from the list of persons liable to serve as jurors, the names of forty-eight persons whom he deems impartial and best qualified to try the issue.

From these names the parties, or their attorneys, alternately strike one name, until each has struck twelve names from the list. The twenty-four persons whose names are not struck from the list are notified to attend upon the term at which the trial is to be had, the same as ordinary trial jurors are notified. From the persons so notified and attending, a jury is formed in the same manner as other jurors are formed.

A struck jury can be had only in the supreme court or a superior city court.

**The Court for the Trial of Impeachments** has already been mentioned as composed of the president of the Senate, the senators, or a majority of them, and the judges of the court of appeals or a majority of them. The power of impeachment is vested in the Assembly, the vote of a majority of all the members elected being necessary. The Assembly, having voted to impeach, prepares articles of impeachment setting forth the grounds for the same. It is not unlike the indictment found by a grand jury. The Assembly appoints from its members so many as is deemed expedient, to act as managers in conducting the trial. They are the public prosecutors, — like the district attorney in conducting



a trial for the commission of a crime. No one can be convicted under articles of impeachment without the concurrence of two-thirds of the members of the court present.

Judgment, in cases of impeachment, cannot extend further than to removal from office and disqualification to hold any office in this state thereafter.

**Clerks of Courts.**— Courts of a higher grade than justices' courts, require clerks, and other officers and attendants. The county clerk is the clerk of the supreme court. The clerks of the other courts are usually, if not uniformly, appointed by the courts which they serve.

**The District Attorney** in person, or by his assistants, conducts, on behalf of the people, all trials for the commission of crime. He is styled a judicial officer.

**Lawyers are Officers of the Court.**— Their proper title is attorneys and counsellors-at-law. Persons are admitted to practice in the courts, under rules and regulations prepared by the court of appeals and the supreme court.

**Notaries Public and Commissioners of Deeds** are officers invested with important judicial functions. They take affidavits, administer oaths, and take acknowledgments of the execution of deeds, mortgages, and other written instruments.

Notaries are appointed by the governor and Senate, commissioners of deeds by the Common Council of the city in which they are to serve. They must be residents of the county or city for which their appointment is made; but notaries, upon filing a certificate of their appointment in the clerk's office of another county, may act in such county.

A deed or mortgage, or other instrument affecting the title to real property, will not be recorded, unless its execution is acknowledged by the parties making the deed or other instrument, before an officer authorized to take and certify to the same.

Where a deed, mortgage, or other instrument acknowledged before a notary in one county, concerns property in another county, it must be recorded in that other county. But before it will be admitted to record in such county, a certificate, under the seal of the county clerk of the county in which the acknowledgment was taken, must be attached to the instrument and must state that the person taking the acknowledgment is a notary, and that he knows the signature to be the signature of such notary. To this end it is necessary for a notary to file his signature in the county clerk's office.

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#### QUESTIONS RELATING TO CHAPTER IV.

1. Why do we need courts?
2. Name some of the things which must be considered in providing courts to meet all the requirements of the people.
3. Tell what you know concerning justices' courts. Can a person be tried for his life in a justices' court? If not, why? What do you know of the limitation of powers in these courts? By what authority are these limitations imposed? Name other courts that correspond with justices' courts in towns.
4. Who is the presiding officer of a county court? Express in four terms the jurisdiction of the county court, one of these terms being the word "original." What is a county court called when engaged in a criminal trial? What is the equivalent, in New York City, for a county court?
5. Give your ideas of the organization, jurisdiction, and powers of the supreme court. What is a judicial district? What is a judicial depart-

ment? Name the title under which the supreme court transacts different branches of its business. State the business of each.

6. Name some courts having local jurisdiction similar to that of the supreme court.

7. Name certain inferior city courts.

8. What is the business transacted by a surrogate's court?

9. Can an action be commenced in the court of appeals? State how it is composed. What decisions does it review? How is it relieved when there is an accumulation of causes upon its calendar?

10. When and for what purpose are referees employed? What does a referee do?

11. What is a grand jury for, and how is it formed?

12. How is a trial jury formed?

13. What is a struck jury? How is it formed?

14. How is the court for the trial of impeachments formed?

15. Mention some of the powers and duties of Notaries and Commissioners of Deeds.

## PART IV.

### CIVIL DIVISIONS OF THE STATE.



#### CHAPTER I.

##### PRELIMINARY SUGGESTIONS.

It is evident that any attempt, through a centralized authority at the seat of government, to exercise all the functions of government, in all of its details, over the entire territory and population of a large state, would be found cumbrous, unwieldy, and impracticable.

Under the first Constitution of the state, fourteen counties, already existing, were recognized, and the representation of each in the Assembly was defined.

The towns, as then constituted, were also recognized ; their officers were continued and their future election, as should be directed by the Legislature, provided for.

The counties and towns were constituted civil divisions with certain defined powers of local self-government.

In time, provision had to be made for the incorporation of villages and of cities, with certain other specified powers of local administration.

These local governments are to a degree modeled after the plan of the state government. They have

their legislative, executive, and judicial departments, but their powers are strictly defined by law.

The Legislature for a county, is a board of supervisors; of a village, is a board of trustees; of a city, a board of aldermen or common council.

The Legislature of a town consists of the assembled voters at a town meeting, where officers are chosen, taxes for town purposes are ordered, and other business of the town is transacted.

A town is also further divided into school districts, with certain powers and duties concerning the maintenance of public schools, and some counties into school commissioner districts. (See pp. 128, 131.)

Through these minor civil divisions of towns, counties, villages, and cities, called municipal corporations, the people secure the blessings of free government more completely than they could through any centralized power, however beneficent its purposes.

It is also found convenient to divide the territory of the state for other purposes than local self-government,—as for the election of officers whose jurisdiction is not limited to the districts from which they are chosen. Such are judicial districts, in which the judges of the supreme court are elected; congressional districts, for the election of representatives in Congress; senatorial districts, for the election of state senators; assembly districts, from which the members of the Assembly are chosen, and the like. So, also, for the convenience of the people, election districts are formed of small territory and a limited population, so as to ensure the opportunity to vote for all desiring to exercise the elective franchise.



These latter are a part of the machinery of the general state government, not governments within themselves, like counties, towns, etc.

It is now in order to inquire what are the needs of a people, which are to be met by the division of the state into towns and counties or otherwise.

The organization and powers of school districts will be considered in the chapter on education (p. 128).

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**QUESTIONS RELATING TO CHAPTER I.**

1. Name some of the divisions of a state, having governmental powers.
2. Name some that have no governmental powers. What is the use of the latter?
3. What constitute the Legislatures of towns, counties, villages, and cities respectively?

## CHAPTER II.

## THE TOWN.

WHAT the needs of a town are, is determined, within the limits prescribed by law, by its Legislature, — the voters assembled in town meeting. There will be the care and maintenance of its poor, building and repair of bridges, laying out and repair of highways, and many other things to provide for. Many duties imposed upon it by the laws of the state, will require officers for their proper discharge. It must have representation in the county Legislature. It will require courts of justice, and officers to wait upon these and execute their commands.

The assessment and collection of taxes calls for assessors and for an executive officer known as a collector. These, and other officers, are chosen at the town meeting. This is held on the same day in each town of a county, and may be fixed by the board of supervisors for any day between February 1 and May 1.

The officers to be chosen are a supervisor, four justices of the peace, a town clerk, three assessors, — in some counties more than three, — a collector, an overseer of the poor, one or more commissioners of highways, three excise commissioners, and not to exceed five constables. Only one justice of the peace and one assessor is chosen at any town meeting, except where

there is a vacancy—as the term of only one of these officers expires each year. The officers to be chosen, and their duties, are prescribed by law, and are not always precisely the same in each county, but in the main are as above set forth.

**The Supervisor** is the representative of the town in the board of supervisors. Its business with the county is his especial charge. Many other duties relating to the town's business are imposed upon him. He is practically the treasurer of the town.

**The Justices of the Peace** are the local judges whose powers and duties have been sufficiently set forth in the chapter on the judicial department (pp. 55, 56).

**The Duties of the Assessors and of the Collector** are explained in the chapter on taxation (pp. 119, 120).

**The Town Clerk** keeps the town records, and all papers relating to the affairs of the town are filed with and preserved by him. He is the *local secretary of state*.

**The Constables** are executive officers, and wait upon the justices' courts, serve their processes, have charge of the arrest of criminals and their custody awaiting trial, and are charged with the collection of judgments entered by the court. They also sometimes serve at the county seat when the court is in session. The duties of the other officers named are in a general way sufficiently defined by their titles.

The supervisor, town clerk, and justices of the peace constitute a board of auditors to examine and pass upon claims brought against the town. Such as they approve are submitted to the board of supervisors, that the sum may be included with other items in the tax to be levied upon the town.

## CHAPTER III.

## THE COUNTY.

THE needs of the county will be much the same as those of the town, but upon a larger scale. It must have a court house, a jail, a fire-proof building for the preservation of public records, and other buildings and properties essential for the proper execution of the county business. Its legislature is **The Board of Supervisors**, which is composed of one supervisor from each town in the county. It can only legislate within the powers prescribed for it by law. It is not possible to enumerate here all the powers and duties of a board of supervisors under the law. They are the authority under which taxes are collected. (See chapter on Taxation.) They canvass the returns of elections made to them by the inspectors of election in the several towns. In this capacity they act as a board of canvassers, having only ministerial powers. They are not invested with any discretion, but must ascertain, record, and promulgate the results precisely as these have been returned to them by the inspectors. Where obvious errors or conflicting results are found upon the returns received by them, they may send back the returns to the inspectors for correction.

The executive and judicial officers of a county are the following: A county judge, a surrogate in counties of

forty thousand population or more ; a sheriff, a county clerk, a district attorney, county treasurer, superintendent of the poor, or equivalent officer, and four coroners. These are all distinctively county officers and are elected by the people.

**The Duties of County Officers** do not need to be set forth at large. Some of them will be found stated in connection with other topics of discussion. The county clerk is the custodian of the county records. Deeds of real property, and mortgages and other liens or incumbrances are recorded in his office for safety and for the information of the public. In New York, Kings, and West Chester counties, this class of records is in charge of a special officer called a register. The county clerk is by law made the clerk of the supreme court in the county for which he is elected. This may perhaps be regarded as a *quasi* judicial function ; yet, as a whole, his duties are administrative rather than executive or judicial.

**The District Attorney** is the prosecuting officer of the county. (See p. 70.)

**The Sheriff** is an *executive* officer. He has charge of the county jail, the custody of the criminals committed, and executes the orders and mandates of the court in respect to both civil and criminal matters.

**The County Treasurer** receives the county moneys from all sources, and pays them out in the manner directed by law.

**Coroners.** — It is the duty of these officers to investigate sudden and mysterious deaths which may have been produced by violence or other than natural causes. Their proceeding is called an inquest, and the coroners



have power to summon a jury and subpoena witnesses. If the evidence points strongly to the commission of a crime, the accused may be held in custody to await indictment by the grand jury, and trial in criminal court. In the case of a vacancy in the office of sheriff, the county judge may designate a coroner to act as sheriff.

**Superintendents of the Poor** have general charge and oversight of the indigent poor of the county.

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#### QUESTIONS RELATING TO CHAPTERS II. AND III.

1. Tell all you can think of about towns: their respective requirements, their powers, their officers, and the duties of these.
2. Name some of the requirements of a county.
3. Of what is its legislature composed? What are its powers? Is the board of supervisors a legislature when canvassing the returns of an election? What are its powers in that capacity?
4. Name the officers of a county and state. What are some of their duties?
5. In what counties are deeds, mortgages, etc., recorded with another officer than the county clerk? What officer?

## CHAPTER IV.

### RELATION OF TOWNS, COUNTIES, VILLAGES, AND CITIES TO THE STATE.

It is to be observed that **Towns and Counties** have each a double function. They not only regulate their own internal affairs under the law, as corporate bodies, but they are at the same time the authorized agents of the state in the execution of its will as expressed in the law.

Justices of the peace, though elected by the town, derive none of their powers from the electors, but wholly from the state.

Collectors of taxes receive moneys from the taxpayers, not only for the needs of the town, but for the state as well.

So of the county, the board of supervisors has a certain limited discretion as to the amount of money which it will put into the tax levy for county purposes, but has no discretion concerning the amount that shall be raised for the purposes of the state. Here, the mandate of the Legislature, communicated through the comptroller, is imperative, and must be obeyed.

**Villages and Cities.** — The relation to the state of its villages and cities is somewhat unlike that of its towns and counties. The primary relation of towns and counties is as agents of the state in the administration

of the government. Incidental to this, and in furtherance of its purpose, is the granting to these communities of certain defined powers, in the election of local officers, and in the control of their local affairs.

The main consideration in the incorporation of villages and cities, is the concession to them of those larger powers in local self-government through which the more urgent needs of a numerous and dense population may be met.

Towns and counties are a necessity to the state, holding incidental, though important, advantages for themselves.

Villages and cities are a necessity to themselves, but yielding incidental though very considerable advantages to the state.

It must be borne in mind that the village never ceases to be a part of its town, nor a city of its county, except in those rare instances where the village and the town, or the city and the county become one.

Hence, there will always be a town and a county through which the village or the city will be in practical relation with the state, as its agent in the administration of the government, without any impairment of its own corporate powers and privileges.

Even where the village and the town, or the city and the county are one, the town and the county will still maintain their corporate existence as agents of the state for such purposes as the state may require. It will still be as a town that the village will elect its supervisor; it will still be as a county that the city will elect its sheriff, its county clerk, or its district attorney.

## CHAPTER V.

## VILLAGES.

THE number of incorporated villages in the state, January 1, 1892, was 352. Their population in 1890 varied from 177 to 16,423. Six had a population exceeding 10,000 each. The most populous exceeds in the number of its inhabitants any one of twelve out of the thirty-four cities. Many of these villages were incorporated by special acts, before the enactment of the general law for that purpose, and would not now be eligible for incorporation.

When some portion of a town becomes a center of business activity, with a population much more concentrated than in the surrounding region of country, many needs relating to the public convenience and welfare will arise, which cannot be met under the powers conferred upon an ordinary town organization.

Highways, which have now become streets, will need to be more durably constructed, sidewalks will be a necessity, which will add to the cost of construction and maintenance; and the taxpayers of the town at large will naturally object to sharing in an expense which chiefly benefits the populous center of trade and thrift.

Recourse must then be had to incorporation, by means of which the larger powers, required to meet the larger needs, may be secured.

**General Incorporation Law for Villages.** — The incorporation of villages is now effected under the provisions of a general law. To be eligible to incorporation there must be a population of not less than three hundred within an area of not exceeding one square mile. Of course a larger territory than one square mile may be included, but there must be three hundred inhabitants for each additional square mile.

After certain preliminaries concerning notice, required by the statute, are complied with, the question for or against incorporation is decided by ballot, at a meeting of the voters called for that purpose. If the vote is favorable, the incorporation of the village is effected upon filing notice of the result with the county clerk.

An election for village officers is thereafter held, at which the votes of a plurality elect.

**Village Officers.** — The officers provided for in the statute are a president and three trustees, a treasurer, and a collector. A clerk, street commissioner, and some other officers are or may be appointed by the board of trustees. Provision is also made in the statute for increasing the number of trustees from time to time, as the population of the village increases. The trustees, or a committee of their number, act as assessors; but it is also provided that this may be changed and assessors elected. Where the population of a village exceeds three thousand, the trustees may provide for the election by the people of a police justice, whose term shall be four years, and who shall have the power of a justice of the peace in the town. The trustees and village clerk are constituted inspectors of election.



**Powers and Duties of the Trustees.** — The trustees have the care, management, and control of the finances and property of the village, and the custody of its records. They may make and amend or repeal rules, ordinances, and by-laws for the government of the village. They have important powers in relation to the public health. They audit accounts and claims against the village. They are, in short, the village Legislature with some executive and judicial functions, but possessing no powers but such as are conferred by law.

They are required to make, at every annual meeting, a statement of the expenditures for the past year, and of the estimated expenditures for the ensuing year.

The trustees are authorized to incur the ordinary expenses necessary to carry out the provisions of the law, or to enforce the rules and by-laws of the board made in pursuance of law.

Extraordinary expenses, as for some considerable and costly improvement, must be submitted to the electors for approval.

**The Taxpayers of the Village** contribute to the expenses of the town and county, and pay their share of the state tax, in common with the taxpayers of the town, and these they pay to the town collector.

The taxes for village purposes are assessed, levied, and collected by the village authorities, and are paid into the village treasury.

## CHAPTER VI.

## CITIES.

**Cities** are but villages, whose population and material interests have outgrown in their requirements the limitations imposed by a village charter.

Larger powers are deemed necessary to plan and to construct local public improvements upon a scale to meet the demands of an increased and increasing population, and to provide the means with which to pay the cost of their construction and maintenance.

Stronger powers are and will be needed to restrain the vicious tendencies of the lawless classes, who always seek, in the great centers of population, a refuge, or a field for criminal activity.

More diversified powers are required to meet and provide for the changing conditions wrought by commercial growth and the expansion of industrial activities.

Just what the conditions are, or must be, which will make it expedient to secure incorporation as a city, cannot be absolutely defined. Population alone does not determine the question, for, as has been shown on p. 83, there are several villages in the state, each with a population greater than that of any one of a number of cities.

Neither the Constitution nor the laws attempt to define the conditions of eligibility for incorporation.

The spirit of the age favors local freedom, and makes controlling the desires of the community to be served, as expressed through their immediate representatives in the Legislature.

**Limitation of Corporate Power.** — But though the conditions of eligibility to incorporation are thus made easy, the powers which may be conferred by any act of incorporation are limited by the Constitution in these words: "It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments, and contracting debt by such municipal corporations." Article VIII, sec. 9.

The above is an obligation imposed upon the Legislature to restrict the powers of municipal corporations through their acts of incorporation. But section 11 of the same article, itself restricts the powers of these corporations in respect to the amount of debt which they may create.

**Municipal Organization.** — Certain features of organization will, in the nature of things, be found common to all city charters.

In all, the legislative power is vested in a board of aldermen, or common council.

The chief executive officer in every city is the mayor.

A **Law Officer** is provided for every city. In some he is styled city attorney, in others corporation counsel, these being but different names for substantially the same thing.

He conducts all the legal business of the city, prosecutes and defends suits, and renders opinions upon questions of law when called upon by the common council, the mayor, or other city officers.

He has nothing to do with criminal business, which is attended to by the district attorney of the county.

**City Revenues.** — The collection and disbursement of the yearly revenues constitute an important department of municipal administration. The amount of moneys that shall be raised, and the purposes to which they shall be applied, are generally passed upon by the common council. But, in some cities, the council only passes upon estimates previously prepared for them by an officer, or by a board of officers constituted for this purpose, and called a board of estimate. The sums fixed by this officer or board, to be raised for the various purposes named, may be reduced, but cannot be increased by the common council.

**City Assessors.** — In the meantime the assessors, or in some cities an organized board of assessors, have been engaged in ascertaining the value of the property liable to taxation.

**Collector or Receiver of Taxes.** — The officer who collects or receives the money from the taxpayers is, as in towns, commonly called a collector. But in New York City he is called receiver of taxes. In several cities he is designated chamberlain, who may also act as treasurer; and in some, the duties are performed by some other officer of the city.

**City Treasurer.** — The moneys received by the collector are by him paid over to the city treasurer, who deposits them in such banks or trust companies as the proper



authorities direct. In some cities the taxes are paid directly to the treasurer, who is *ex officio* collector.

The money once in the treasury, it cannot be paid out except upon proper authority.

**City Auditor.**— In some cities there is an officer called auditor, whose duty it is to examine all bills and accounts presented against the city for payment. Before any claim can be paid he must certify that the services have been rendered, or the material furnished, for which the claim is presented.

**City Comptroller.**— In order to carefully guard against error in the management of the finances of a city, it is sometimes found expedient to have a supervising officer known as a comptroller, to whom all other financial officers, as collector, auditor, treasurer, etc., shall make returns of the business in their respective departments. Warrants for the payment of moneys are signed by the comptroller and by the mayor, and are countersigned by the city clerk, and presented to the treasurer for payment. Of course the original authority under which moneys are drawn from the treasury is the common council.

In these or equivalent ways, through such officers, or others charged with similar duties, every city seeks to protect itself in the custody and disbursement of its public moneys.

**Department of Police.**— This is a marked feature of every city government. The executive head, or controlling and directing authority of this department, is variously constituted in the different cities of the state. In some cities the mayor is the source of authority, though his orders are executed through a chief and subordinate officers. Other cities have a board of police



commissioners, of which the mayor is one, and usually its president. In New York there is a board of police consisting of four commissioners, and in Brooklyn a single commissioner is the head of the department. The chief of police is, in most cities, the head of the force, but is subject more or less to the orders of the mayor. Some cities have a superintendent of police who ranks higher than the chief.

**City Fire Department.** — An efficient fire department is essential to every city. The officer in immediate command of the force is the chief engineer, but the department is in most cities under the direction of a commissioner or board of commissioners.

**Board of Health.** — The duties and powers of this board, which at times must be very arbitrary, cannot be enumerated. A single commissioner with subordinates appointed by him sometimes constitutes the department.

**Department of Public Works.** — Among the important interests of any city, its public works will rank very high. The duties of this department will embrace such matters as the custody and care of the public buildings, the water works, streets and highways, sewers and drainage, sunken and vacant lots, the making of maps, plans, and estimates, enforcing contracts made with the city and very many others. In some cities there is a single department supervising various bureaus into which the department is divided. In others each bureau, as of streets, sewers, and the like, is a separate and independent department.

**Department of Buildings.** — This in the larger cities is in charge of a board or officer, whose duty it is to

see that the laws governing the erection of buildings within the city limits are complied with.

**Public Parks.** — These are usually placed in charge of a single officer or board of officers to whom is committed their care and management, their repair and improvement, and who establish rules for their use and enjoyment by the public.

**The Department of Excise** is sometimes united with the department of police, but however constituted, its business is to consider and decide upon applications for license to sell spirituous and malt liquors.

**The Department of Public Instruction** is considered under the article on "Education" (p 134).

**Diversity of Organization.** — In respect to the number of these several departments, and the form of their organization, there will of course be great diversity. But it will be found, that in some way, all of these important and vital interests of the people are cared for in the organic law. If there is anywhere failure to secure the benefits which the law contemplates, it is through the indifference of the people to their own interests.

The constitution or organization of the common council is by no means uniform in the several cities of the state. Nor is it material that it should be so. In some the mayor, in others the mayor and recorder, are *ex officio* members of the common council. In Buffalo the common council consists of two bodies.

The division of powers between the mayor and common council in respect to the appointment of heads of departments and other officers is far from uniform. In a few cities the mayor has the sole power of appointment. In others this power is vested in the common

council. In others again, indeed in most cities, the appointments are made by the mayor, with the concurrence of the common council.

In every city the mayor has power to veto the ordinances and resolutions of the common council.

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#### QUESTIONS RELATING TO CHAPTERS IV., V., AND VI.

1. Try and define clearly the difference between a town and a village, and between a county and a city, in their relation to the state. If you have no clear idea, read over Chapter IV. under direction of and comment by the teacher, until you understand it. It is not difficult. It is only new.

2. How are villages incorporated? What are the officers of a village? Name the legislative, executive, and judicial officers, respectively, of a village.

3. To whom do the taxpayers of a village pay their state, county, and town taxes? To whom do they pay their village taxes?

4. How does a city become incorporated? What limitations are imposed upon the Legislature in the incorporation of cities and villages? Is there any other restriction upon their powers? What?

5. Name the leading departments necessary to any city government.

6. Name points of resemblance and of difference in the provisions of different city charters.

## PART V.

### MISCELLANEOUS TOPICS.



#### CHAPTER I.

##### CLASSIFICATION OF THE LAW.

1. **Constitutional Law.**—The supreme law of the state — subject always to the Constitution and laws of the United States — is its Constitution.

It is framed by a convention chosen for that purpose, and for no other, and since the first, in 1777, and its amendment in 1801, the work of each convention has been submitted to the people for ratification or rejection.

Since 1777 there have been but three constitutional conventions in this state, charged with the duty of preparing and submitting to the people a complete revised Constitution. These were in 1821, in 1846, and in 1867. Of the latter only its judiciary article was ratified.

**Amendments.**— But amendments have at various times been prepared by the Legislature in conformity with the provisions of the Constitution of 1846, and submitted to the people, some of which have been ratified and others rejected. The most considerable of these was the work of a commission of thirty-two members, con-

vened under an act of the Legislature of 1872. The amendments agreed upon by the commission were submitted to the Legislature of 1873, approved, with the exception of one article, by that and the succeeding Legislature, and finally ratified by the people.

Other amendments to the Constitution have since been made by the action of two successive Legislatures and ratification by the people.

The Constitution is the framework of the civil government of the state. It defines the rights of the citizen, and declares them to be inviolate. It provides for the establishment and equipment of the three departments of government which have already been considered. It defines and limits their powers, and prohibits such legislation as it is believed would be harmful. It sketches in outline the various departments of administration, and provides for their organization and effective operation. The subjects to which it addresses itself can but be learned by a careful study of its provisions. Some of these have already been brought to view in these pages.

**2. The Common Law.**—The convention that adopted the first Constitution of this state in 1777, in a single half-page enacted a vast body of law in these words: “Such parts of the common law of England, and of the statute law of England and Great Britain, and of the acts of the Legislature of the colony of New York, as together did form the law of the said colony on the nineteenth day of April, 1775, shall be and continue the law of this state, subject to such alterations and provisions as the Legislature of this state shall from time to time make concerning the same.” From the above



were, however, expressly excepted such parts as might be construed to establish or maintain any particular denomination of Christians or their ministers, or such as concerned the allegiance of the colony to the king of Great Britain. In other words, there was to be no established church in this state.

**A Significant Date.** — The date after which new enactments of law in England should cease to be in force in the state of New York is significant. It was the day of the battle at Lexington, Mass., when the struggle of the colonists against the usurpations of British power culminated in actual hostilities.

The common and the statute law of Great Britain existing at that time, are commonly considered together as the common law. Great changes have been wrought in this common law, by amendment, or rather by the enactment of laws inconsistent with the common law. But much of it is still in force.

**3. Statute Law.** — The acts of the Legislature form what is known as statute law, and are published each year in volumes entitled, "Session Laws of the State of New York." Emanating as they do from the only law-making power in the state, constituted as such, they are commonly considered as embodying the law of the state. They are in fact only an important part of what constitutes the law.

**4. Judicial Law.** — The decisions of the United States courts and of the courts of record in this state, form a body of law of a very high order. It is hardly too much to say that it is of the highest order. Consideration is herein given only to the decisions of the courts in this state.

Before a court of competent jurisdiction, not only every statute, but even the Constitution itself may be arraigned, upon the trial of any cause in which the true meaning or the constitutionality of the one, or the true meaning only of the other, is in issue. If the court declares the statute to be wholly or in part unconstitutional, it is as though such statute or such part of the statute had never been enacted. What the court declares to be the true meaning of the statute or of the Constitution, becomes the law, embodied in the statute or in the Constitution, and these will thereafter be read and understood in the light of this interpretation given to them by the court.

But the authoritative construction and interpretation of the Constitution and the statutes, forms but a small part of the great volume of judicial law with which the advocate must become familiar.

It embraces the conclusions of the courts in the application of the law to the facts and circumstances of every case, each unlike every other, brought before them for adjudication.

These decisions, and the law which they embody, are of varying degrees of importance as an authority. Those of the court of appeals rank first. But those of the supreme court and of the superior city courts, when not overruled, have much value.

It will be observed that in the formation of judicial law the courts in no wise trench upon the prerogatives of the Legislature. They possess no original law-making power. They cannot go out of their way to find statutes to interpret nor principles of law to enunciate. They can only act upon issues duly and formally made

up and submitted for their adjudication. And then, if the interpretation of the statute by the court is opposed to the real purpose of the Legislature in its enactment, if it appears that the Legislature in fact did what it did not intend to do, and if it is believed that the effect of the statute as expounded by the court will work hardship or injustice, it is the province of the Legislature to amend the statute and thus to prevent future injustice.

There are various minor subdivisions of the law, such as civil law, criminal law, corporation law, marine law, the law of practice found in codes of procedure, and others that might be mentioned. But the mere suggestion of these is deemed sufficient for the purpose here in view.

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#### QUESTIONS RELATING TO CHAPTER I.

1. How is the constitution of a state formed? How may it be amended in this state?
2. Under what constitution of the state are we now living? (See p. 36.)
3. Wherein does constitutional law differ from the laws enacted by the Legislature?
4. By what authority is the common law of England made the law of this state?
5. What is the only law-making power in the state? How is it that we must look elsewhere than in the statutes for much of the law by which we are governed?
6. Tell how the decisions of the courts come to be a part of the law of the state.

## CHAPTER II.

## ELECTIONS.

## SECTION I. — PRELIMINARY.

**Right of Suffrage.** — Civil government is maintained through the exercise by the people of their right to choose the officers who shall make, execute, interpret, and administer the laws. This is called the right of suffrage. That it is found expedient to commit the appointment of many merely administrative officers to the governor and Senate or to the Legislature does not affect the truth of the proposition.

**Voters or Electors.** — Upon a designated day in every year, the legal voters or electors from among the six million of people in this state, are called upon to express their choice concerning one or more officers to whom some of the above-mentioned powers are to be committed. This is called a general election, though county, district, and municipal officers may be and frequently are, chosen at the same time. This election occurs on the first Tuesday after the first Monday in November in each year. The terms voter and elector are used interchangeably, meaning the same thing; that is, the person who has a right to vote.

Elections for town and for village officers, and in most cities for city officers, are held at another time than that designated for the general state election.



**Election by Ballot.** — In this state all officers, whose appointment by some constituted authority is not provided for by law, are chosen by ballot.

Prior to the organization of the state government in 1777, the voting for the few officers elective by the people was *viva voce*.

The first Constitution of the state provided for the election by ballot of the governor and lieutenant-governor only. It did, however, with expression of considerable misgiving, confer upon the Legislature the power, "as soon as may be after the termination of the war between the United States of America and Great Britain," to provide that all elections thereafter to be held for senators and representatives in Assembly, should be by ballot. But it further provided "that if, after a full and fair experiment shall be made of voting by ballot aforesaid, the same shall be found less conducive to the safety or interest of the state than the method of voting *viva voce*," the Legislature might abolish the same by a two-thirds vote.

**Election by Plurality.** — In this state the candidate receiving the highest number of the votes cast for any office is elected. This is called election by a plurality of votes, in distinction from an election where a majority of all the votes cast is necessary to elect. An exception to this rule is made in a few instances, where it is deemed advisable to give representation to the minority. Thus, in an election for justices of the sessions in counties, two are to be chosen, but the name of only one is to be placed upon any ballot, and the candidates receiving the highest and the next highest number of votes are elected. A similar rule applies to the election of inspectors of



election wherever these officers are made elective by the people, except that there a selection is afterwards made from those receiving the smaller vote.

**Qualifications of Voters.** — The right of suffrage is not like “life, liberty, and the pursuit of happiness” a natural and inalienable right. The people of the state, through the Constitution which they ratify, declare who shall be entitled to vote — and their determination embraces considerations of justice and expediency, rather than of right. The following are excluded : —

1. All women.
2. All persons under twenty-one years of age.
3. All unnaturalized foreigners.

These exclusions reduce the voting class to male citizens, twenty-one years of age.

But there are further restrictions. A naturalized foreigner must have been such for ten days previous to the election at which he offers his vote.

A citizen must have been an inhabitant of the state for one year, a resident of the county four months, and of the election district in which he offers to vote, for thirty days.

Where all of the above-named conditions are complied with, the person is *presumed* to be a legal voter.

**Other Disabilities.** — But the citizen may have created for himself other disabilities which will deprive him of the franchise. Persons convicted of bribery or of any infamous crime, thereby forfeit their right of suffrage.

The Constitution declares that no person who has given or received, or paid or promised to pay, any money or valuable thing, or who shall make any promise as an

inducement to another to give or to withhold his vote at an election, or who is interested in any bet or wager depending upon an election, can vote at such election. That this constitutional inhibition is enforced in every instance is hardly to be presumed.

**Registration of Voters.** — To aid in ascertaining who are the qualified voters at any election, a list of such voters is prepared before the election in each year, in each election district of the state. In the cities of New York and Brooklyn these lists are prepared by officers called registrars, who enter thereon the names of those only who appear before them for the purpose of being registered, and who give such facts relating to their identity as are required, which are entered with the name of the voter upon the registry list. The list thus made up is called the Registry of Voters in the ---- Election District -----, Ward of the City of ----- . No one whose name is not on the registry can vote at the ensuing election. One's rights as a voter may be challenged when he offers to register, or when he offers his vote, and in either case, there must be administered to him an oath prescribed by law, covering the qualifications of a voter. If he takes the required oath his name must be registered or his vote must be received, as the case may be.

In other cities, and in the towns, the registry lists are made up by the inspectors of election in the several districts, on the days designated by law. The basis of this registry is the list of those who voted at the last previous general election, called the poll list. This is revised and corrected by the inspectors, by striking off the names of those known to have died or to have removed from the district, and by inserting the names of

others who present themselves for registry, and prove themselves to be legal voters in the district.

At the last general election (1891) there were registered in the 4892 election districts in this state, in the neighborhood of 1,400,000 voters. Of these, only 1,162,853 exercised the privilege of voting.

**Concert of Action among Voters at an Election.** — The inquiry arises, what is there in the law, or in the nature of things, to prevent each individual elector from voting for a different set of men for the various offices to be filled at an election? In the law, nothing. In the nature of things, everything. If it could be possible, representative civil government would be a failure. It would be a demonstration, complete and absolute, that mankind were not fit for self-government.

It is, however, inconceivable that a million and more of voters, or a few thousand, or even a few hundred, should go to the polls without some previous conference or understanding by some of them amongst themselves, as to a set of candidates whom all should agree to support.

It is equally unlikely that all the voters could be brought to unite in supporting the same set of candidates. This difference of opinion would give rise to two or more conferences. The result would be, not less than two sets of candidates to be voted for; there might be three or more. The voters pledged to either set of candidates would for that occasion or election constitute a political party.

**How Parties are Formed.** — Upon what issue would such a general conference as we have supposed, divide and form separate conferences? It might be, either the personal character and fitness of the men proposed as can-

didates, or their pronounced views concerning some principle or policy in the administration of the government.

But there are many men of high personal character, and of eminent fitness for official position, in every community, so that a failure to unite upon that issue would be but natural. The result of such failure would be a division into many conferences and the presentation of many sets of candidates against whose personal worth and fitness nothing could be urged. The embarrassment would be the same in kind, and only less in degree, as that which we have supposed would result from each voter going to the polls with no previous conference with any other voter.

The obvious conclusion is, that the voters would agree amongst themselves upon some line of *policy* in the administration of the government, which they would advocate, and to the support of which their candidates would be pledged.

Another class of voters, opposed to the policy promulgated by the first, would formulate their policy of government, and select candidates favorable to their views. The superiority of the issue thus formed, over one based upon the purely personal attributes of candidates, does not need to be emphasized. The former is enduring, the latter is ephemeral. The former unites masses of voters and holds them together, not for one election only, but for generations of elections.

It must not be supposed that the preliminaries to nominations would embrace all the details sketched in our illustration. There would be no general conference that would meet, disagree, and divide into separate conferences. Long before the time for the election, the



issue to be decided at the polls would be made up and defined through the newspapers and in public discussion; public opinion will have become divided, parties will have been formed, and the separate conferences will have taken the form of representative conventions, called for the purpose of nominating candidates in the interest of their respective party constituencies.

Such, in outline, is the evolution of parties in a government by the people. Parties are a necessity, but they are a means to an end, not the end itself. Parties come into being as agencies in giving expression to the will of the people. Government by the people, for the people, through parties as an instrumentality, is both necessary and salutary. Government by party, for party *only*, is a form of despotism.

**Nomination of Candidates.** — It is no more possible for parties, that is, for the members or constituencies of parties, to agree in mass meeting upon the selection of candidates whom they will support, than it is for the people to enact laws in that way. The half million or more of voters attached to each of the leading political parties in this state must, therefore, be so organized, that they can act through representatives to whom they will commit the power and duty of nominating candidates for the party support. For this purpose of organization, the civil divisions of the state are made use of. The unit of political action is the town or ward, but the unit of political power is the county. In every county in the state there is for each of the two leading political parties what is known as a

**County General Committee.** — This is a representative body composed of delegates chosen from the towns or



wards in the county, by the voters belonging to the party, or to the party organization, in the towns or wards. In New York City, however, they are chosen by Assembly districts, these being, in that city, the unit of political action. This committee has general charge, within the county, of the interests and affairs of the party which it represents. It organizes and conducts the political campaign, appoints meetings, assigns speakers, and otherwise labors to promote party enthusiasm and to swell the party vote. Much of the active work is done by an executive committee of the general committee, or by a campaign committee.

In the larger cities it is practicable to maintain a permanent ward or district organization to membership in which none but voters with the party are admitted. These are called **Ward or District Associations**. They hold meetings, more or less regular, for the admission of members, and for the transaction of general business in the interests of the party which they represent. They elect delegates to the county general committee and to various nominating conventions, and nominate the candidates for ward officers. The meetings at which delegates are chosen, or ward officers nominated or their own officers elected, are called primaries, are held by direction of the general committee, and are also under the protection of the law in respect to the exclusion of those not entitled to vote, and to the preservation of order and regularity in the conduct of the election.

In the towns of the state, and in the wards of cities where no permanent party association is formed, the voters of each party meet, in what is called a caucus, for the purpose of nominating town or ward officers,

and choosing a member of the county committee. It also appoints a committee with power to call future town or ward caucuses for the like purpose, and for choosing delegates to county or Assembly district nominating conventions. These conventions nominate candidates for county officers, or for a member of Assembly and for school commissioners.

Nominating conventions in districts embracing more than one county, as judicial districts and others, are called by the district committee appointed for that purpose at a previous convention. Delegates to these larger district conventions, as also to the state convention for the nomination of state officers, are chosen by the county convention, or by the conventions in the lesser districts. The state convention, besides nominating candidates for state officers, and in presidential years, delegates to the national convention and candidates for presidential electors, appoints each year a **State Committee** composed of one member from each congressional district. This committee conducts the campaign of the party over the entire state. It maintains correspondence with county committees to learn the state of the canvass, and co-operates with them in devising ways and means to make the work effective and the result successful.

In this way candidates are selected by the two great political parties of the country. There may be, there often are, candidates put in nomination, by conventions of voters who hold to some distinctive and dominating principle or policy not recognized by the leading parties, but which *they* regard as vital, and which *they* are organized to promote.

**Importance of Party Organization.** — This discussion concerning parties and party machinery is by no means outside the domain of civil government. We can have no rational conception of civil government, which is only the will of the people expressed through prescribed forms and duly constituted agencies, if we leave out of view its elementary factors. It is not material that this agency is not prescribed nor created by law. It has the sanction of law in the protection given by law to the primary elections by parties, and in the exclusion from the polls of ballots not duly authenticated by party convention or other representative authority. The people elect, but the party conventions give the people but a narrow choice as to whom they may elect. Which is the greater force? It is a great power — a great responsibility — that of a nominating convention. Yet without this agency or force, expressed in some form, civil government would cease to exist, and the people would be left to choose between despotism, anarchy, and chaos.

## SECTION II. — OFFICIAL PREPARATION.

**Machinery of an Election.** — To provide the machinery by which 1,500,000 voters — more or less — may, between sunrise and sunset, deposit the ballots which express their choice of candidates for the several offices to be filled, is a great undertaking.

**Districts.** — The entire state must be divided into election districts, convenient in point of size and voting population. The law imposes this duty upon certain local authorities, and prescribes the manner in which

it shall be discharged. At the election in this state, in 1891, there were 4892 of these election districts.

**Rooms and their Equipment.** — In each of these districts, a room must be provided suitable for the purposes of the election. These must be furnished with tables, chairs for the use of poll clerks, registry lists, ballot boxes, blank poll lists, and other blank forms that may be required in administering the oath to challenged voters, writing materials, a guard rail for the protection of voters from crowding or other interference, and booths into which the voters may retire for the selection or preparation of their ballots.

**Election Officers.** — Inspectors of election, not less than three at each poll, must be in attendance on the morning of the election, to receive the ballots from the officers charged with their care and delivery, and to have charge of the proceedings during the day. In Brooklyn, the registrars in each election district serve also as inspectors of election, together with two other persons appointed to act with them. Ballot clerks and poll clerks will be required to deliver the ballots to voters and to enter the names of voters and compare them with the registry. Altogether, not less than thirty-five thousand officers are employed in conducting a general election in this state.

**Printing and Distribution of Ballots.** — Prior to the election, many millions of ballots must be printed, and the required number of these must be delivered to the inspectors at the polling place in each of these nearly five thousand districts, before the time for opening the polls on election day. Should there be four general tickets nominated for the next general election, there will have



to be printed and distributed not far from 11,500,000 ballots.

Except in the cities of New York and Brooklyn, the county clerk of each county attends to the printing of the ballots for his county and to their delivery to the town clerks of towns or to the city clerks of cities on the Saturday before the day of election. The town clerks and city clerks deliver them to the inspectors of election, on the morning of election day. The board of police in the city of New York, and the board of elections in the city of Brooklyn, attend to the printing of the ballots and to their delivery to the inspectors. The utmost care and vigilance must be exercised in the printing of these ballots, to avoid mistakes in the spelling of the names of candidates, or errors in the indorsements, or even the accidental marking or blurring of the ballots or any of them, which will cause their rejection; and equal care will be required by the officers in whose custody they are placed, to guard them from accident or malicious interference.

It will be seen from the foregoing that the elective franchise is regarded as a matter of supreme importance. In the exercise of this high privilege the humblest toiler and the millionaire stand on the same level before the law, which accords to each the same facilities and the same protection.

### SECTION III. — THE VOTING.

Until two years ago, the printing and distribution of the ballots to be used at an election were looked after by the candidates and by the official representatives of



the respective political parties, who in each town or ward would take them in charge and provide for their delivery to the voters as they came to the polling place.

**The Ballot Law of 1890.** — But under the ballot law of 1890 all this part of the voluntary machinery of elections has passed away. The ballots, printed under the direction of the county clerks, or other lawful authority, are called “official ballots,” and are the only ballots delivered to the inspectors and given by them to the voters. There will be as many kinds of ballots as there are different parties represented, and there will be the same number of each kind. If no nominations are made except by the Democratic and Republican parties, there will be but two kinds of ballots. If the Prohibition party and the Labor party make nominations, there will be four kinds of ballots. These are not folded, but are spread out on a table under the eye of the inspectors and ballot clerks, and in view of the voters. The ballots at each polling place are numbered consecutively from one upward, upon the stubs which are detached from the ballot when the vote is cast.

When the voter reaches the poll, inside the guard rail, he announces his name and residence. If these are found on the registry, the ballot clerk hands him one ballot of each kind. These he takes with him into one of the booths, which is furnished with writing material and a shelf upon which to write. He selects the ballot which he wishes to vote, makes any changes in it which he desires, and folds it, together with the ballots which he does not use, in the manner directed by law. He presents to the inspector the ballot which he wishes to vote, and as soon as this is deposited, the other ballots which

he does not wish to vote. The inspector, after tearing off the stubs, with their numbers and indorsements, these being the same on each ballot, deposits the ballot to be voted in the ballot box, the stubs in another box, and the unused ballots in another.

In this state it is made lawful for the voter to receive from a party canvasser, outside of the polling place, a complete ballot, gummed upon the back, which he may take with him into the booth, and he may paste this over any one of the ballots received by him from the ballot clerk, and he may fold and present this to the inspector as the ballot which he wishes to vote, returning at the same time the other ballots, also folded as before.

Under the law, openness and secrecy are both amply secured. Openness of the polls to the observation of voters and of all who of right may remain in the room, is enforced. The ballot box must be clearly in view. Challengers and watchers may be in the room, but must remain outside of the guard rail.

Secrecy of the ballot is secured to and positively enjoined upon the voter. It is secured by giving to him a ballot of each kind, from which he makes selection in private, by requiring him to fold all the ballots in the same way, and so that their contents cannot be seen by the inspector or by any one in the room. He is enjoined not to disclose to any one the contents of his ballot, and is prohibited from making any mark or sign thereon, whereby it may be distinguished from any of the other ballots cast.

## SECTION IV.—CANVASSING THE VOTE.

At the close of the poll the ballot boxes are securely sealed for delivery to the canvassers. These, except in the city of Brooklyn, are the inspectors of election. In Brooklyn, four persons are appointed by the board of elections, in each election district, to canvass the vote.

The canvass must be immediately entered upon, must be public, and must not be adjourned or postponed until fully completed.

Each political organization having a ticket at the polls, has a right, through its constituted officers, to designate, not to exceed two persons, as watchers, who may be present in the room where the election and the canvass is conducted, from the opening of the polls until the close of the canvass.

**Duties of Canvassers.**— They must choose a chairman. They first count the ballots, unopened, to ascertain if their number corresponds with the number of votes entered upon the poll list. Should an excess of ballots be found, they must all be returned to the box and thoroughly mingled. Ballots, equal in number to the excess found, are then withdrawn by one of the canvassers, who stands with his back to the box, and these ballots are destroyed unopened.

The ballots are then opened, and the votes for the several candidates are canvassed, in the order in which they appear upon the ballots. As soon as the ballots for all the candidates for any office are canvassed, the vote for each candidate is openly announced. Great care is taken—or is required by law to be taken—by the canvassers in making to the officers appointed to

receive them, full and correct returns of the votes cast for each of the candidates, and in preserving and forwarding the ballots voted.

The returns made by the district canvassers concerning city officers, are afterwards canvassed and the results announced by the board of aldermen; those relating to all other officers, by the board of supervisors. The several boards of supervisors make returns in triplicate; one to the secretary of state, one to the state comptroller, and one to the governor, of the votes canvassed by them for state officers, for state senators, and for other officers chosen from any district larger than a county. These returns are canvassed, and the result announced by the board of state canvassers.

#### SECTION V. — SUPPLEMENTARY.

##### **An Explanation of the Terms Ballot, Vote, and Ticket.**

— These are sometimes used as meaning the same thing. But they are not precisely the same. The difference between a ballot and a vote may be illustrated as follows: —

Suppose the names of two candidates for the same office, as for inspectors of election, to be printed as required by law upon one set of ballots, which we will distinguish as **A**; and the names of two other candidates to be printed upon another set of ballots, which we will call **B**. If, of ballots **A**, 100 are voted and of ballots **B** 90 are voted, there will be 190 ballots cast, containing four names for inspectors of election. But the number of *votes* cast for inspectors of election will be 380 — there being 200 votes for inspectors on ballots



A, and 180 votes for inspectors on ballots B. These ballots will be canvassed, and the return made, substantially as follows, designating the candidates on ballot A as A and B and the candidates on ballot B as C and D: —

Whole number of *votes* cast for inspectors of elections, 380; of which

A received	100 votes,	
B received	100 votes,	
C received	90 votes,	and
D received	90 votes,	= 380 votes.

The word “ticket” is commonly employed to indicate the political character of the ballot. Thus the terms Democratic ticket, Republican ticket, or Labor ticket are more common than Democratic ballot, etc. A political convention is said to nominate a “*ticket*.” It certainly does not nominate a “*ballot*.” The “ticket,” when printed for the use of the voter, becomes a “ballot,” but in his hands, or at least in his *mind*, it is the *ticket* of his party, that he votes. In a legal contest over the results of an election, greater precision in language is employed, and Democratic or Republican “ballots” are what are commonly referred to.

A “straight ticket” is the regular ticket of a party, voted without any change in the names of the candidates printed upon the ballot.

A “split ticket” is a ticket or ballot made up by selecting candidates from two or more of the regular tickets.

A “scratched ticket” is a ballot from which one or more names of candidates are erased, — “scratched,” — without substituting other names in their place; or a



ballot upon which names of candidates which may or may not be found upon other regular tickets are inserted in place of those erased. The distinction between a "split ticket" and a "scratched ticket," is not always easily defined, nor is it material.

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The ballot printed herewith is an exact copy of the Republican ballots voted in 18th ward of Brooklyn at the general election in 1891. Of course the same ticket was voted throughout the city — except for local or district officers — where other names appeared. The ballot on its back bore the following indorsement: —

OFFICIAL BALLOT FOR  
FIRST ELECTION DISTRICT,  
EIGHTEENTH WARD,  
CITY OF BROOKLYN,  
NOVEMBER 3, 1891.

JOHN GILBERTSON,  
*President of the Board of Elections.*

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For Governor,  
JACOB SLOAT FASSETT.

For Lieutenant-Governor,  
JOHN W. VROOMAN.

For Secretary of State,  
EUGENE F. O'CONNOR.

For Comptroller,  
ARTHUR C. WADE.

For Treasurer,  
IRA M. HEDGES.

For Attorney-General,  
WILLIAM A. SUTHERLAND.

For State Engineer and Surveyor,  
VERPLANCK COLVIN.

For Justice of the Supreme Court, for Second Judicial District,  
CALVIN E. PRATT.

For Senator, for Fourth Senate District,  
EDWARD H. SCHLUETER.

For Member of Assembly, for Eighth Assembly District,  
JAMES BOYD.

For Register,  
JAMES W. WEBB.

For County Clerk,  
HARRY W. MICHELL.

For County Treasurer,  
ASA C. BROWNELL.

For Supervisor-at-Large,  
HORACE E. DRESSER.

For Justice of Sessions,  
JOHN C. MATHEWS.

For Mayor,  
HENRY A. MEYER.

For Justice of the Peace, for First District, for Unexpired Term,  
JAMES B. TAYLOR.

For Justice of the Peace, for First District, for Full Term,  
JAMES B. TAYLOR.

For Justice of the Peace, for Second District,  
JOHN BRUNNEMER.

For Justice of the Peace, for Third District,  
JOHN KISSEL.

For Aldermen-at-Large,  
GEORGE B. FORRESTER.  
SAMUEL B. DURYEA.  
PHILANDER B. ARMSTRONG.  
ERNEST J. KALTENBACH.  
WILLIAM H. N. CADMUS.  
WILLIAM A. RODEGERDTS.  
JOHN S. OGILVIE.

For Aldermen, for Third Aldermanic District,  
GEORGE A. OWENS.  
PHILIP J. MANE.  
DAVID P. WATKINS.  
HENRY VOLLMER.

For Constable, for Eighteenth Ward,  
WILLIAM T. GILBERT.

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**QUESTIONS RELATING TO CHAPTER II.**

1. How are public officers elected in this state? How was it before the organization of the state government? What provisions in respect to voting were made by the first constitution?
2. Mention the conditions upon which a citizen is presumed to be a voter. How may he forfeit this privilege?
3. How is it ascertained that one is or is not a voter?
4. Give some idea of how political parties are formed. State how candidates are nominated.
5. Give the processes in preparing for an election. Give the process of conducting an election. The same of canvassing the votes. To whom do the inspectors of elections make their returns of the result? What returns are canvassed by the state board of canvassers?
6. What is the difference between a ballot and a vote?

## CHAPTER III.

## TAXATION.

## SECTION I. — ASSESSMENT.

A MOST important function of government is its power to raise money for its uses, by imposing taxes upon its people. This power of the state is supreme and absolute in the Legislature, except as restricted by the Constitution.

It also has power to delegate the like authority to counties, cities, towns, and villages, to raise money by taxation for *their* uses. But this too is subject to constitutional limitation.

**Special Taxes.** — A very considerable sum toward meeting the expenses of the state government is derived from special taxes upon corporations and upon “gifts, legacies, and inheritances” from the estates of deceased persons, of which strangers or remote relatives are the beneficiaries. The amount derived from these sources for the fiscal year ending September 30, 1891, was nearly two and a half millions of dollars.

Counties, cities, towns, and villages are also permitted to collect special taxes in the form of license fees for various purposes, but the amount of these is quite inconsiderable.

**General Taxes.** — But what are commonly spoken of as “taxes,” are the sums levied upon the real and per-

sonal property of individuals, and which they are required to pay toward the support of the government — state or subordinate — as town, county, etc.

These taxes, whether for state or municipal purposes, can only be imposed in pursuance of the authority of law. It is the intent of the law that each property owner shall pay his just portion, according to his means, of any tax levied for public purposes. Some exemptions are provided for, in what is deemed to be for the public interest.

**Assessment.** — The first thing to be done then, when a tax is to be levied, is to ascertain the value of the property, real and personal, owned by each individual taxpayer. This is done, in the first instance, by a set of officers called

**Assessors.** — These, in towns, are usually three in number, one being chosen each year for a term of three years. In villages, at least in those having not more than two thousand inhabitants, the trustees of the village act as assessors. In cities, assessors are, or may be, either elected or appointed, and may be so many as the charter shall prescribe.

It is the duty of the assessors, by visiting the various properties within their jurisdiction, and in other ways, to determine and set down the value of the property, both real and personal, of each taxable inhabitant. From the personal property of any taxpayer the just debts which he may owe are to be deducted in the value set down.

**Assessment Roll.** — The list of taxable inhabitants, with the ascertained value of the property of each, is called the assessment roll of the town or ward for which



it is made. When made, opportunity must be given the taxpayers to examine the roll, and if they deem their assessment unjust, to be heard before the board of assessors. The assessors have power to review their assessments, and to correct any error or injustice of which they became persuaded upon such hearing. When the assessment roll is completed, it is delivered to the supervisor of the town, to be by him presented to the board of supervisors of the county. In cities, the assessment rolls are, or may be, delivered directly to the board of supervisors through its clerk.

**Duty of the Board of Supervisors.** — At their annual meeting, the board of supervisors in the several counties examine and compare the assessment rolls presented from the several towns, to ascertain whether the aggregate valuation of each is fair and just with respect to the others. For, if in one or more towns the property is found to be assessed generally at not more than half its real value, while in the others it is assessed at nearly or quite its full value, it is evident that the former would pay less than its proper share of any tax to be collected. The supervisors will, in such case, readjust the valuations, so that each town will be required to pay its fair share of the tax.

This is called equalizing the assessment roll.

The aggregate equalized valuation of each town is forwarded to the comptroller for his information and for the use of the **State Board of Equalization**. This board is composed of the state assessors, and the commissioners of the land office (see pp. 50, 52).

It is the duty of the state assessors to visit the various counties in the state, and gain such information

concerning the valuation of property therein as will aid the state board of equalization in the discharge of its duties.

These are, to equalize the valuations of property between the several counties of the state, in much the same way that the boards of supervisors equalize the valuations between the towns. The purpose of the law is, that no county shall pay less than its fair portion of the state tax through an under-valuation of its taxable property.

**Recapitulation.**—Such are the processes by which the basis of taxation—the valuation of property—is determined.

1. An assessment of the property of individuals by the town assessors.
2. The equalization of the assessment roll between the several towns of a county by its board of supervisors.
3. The equalization of the assessed valuations of property between the several counties by the state board of equalization.

## SECTION II.—HOW TAXES ARE LEVIED.

1. **The State Tax.**—This is fixed each year by the Legislature. From the aggregate sum which it is found or estimated will be required for all purposes of state expenditure during the next fiscal year, there will be deducted, first, the known sources of revenue, as from invested funds of the state, and others that need not be enumerated; and, second, the estimated proceeds of the corporation and collateral inheritance tax, which have been mentioned. The aggregate of these, deducted from the total estimated expenditure, will leave the amount which is to be levied upon the taxable property

of the state. This, of course, is known approximately from the returns of the previous year made to the comptroller by the boards of supervisors, as equalized by the board of equalization. The amount to be raised will be a certain easily ascertained per cent of this valuation, and is expressed in the form of so many mills or fractions of a mill upon each dollar of valuation.

Thus, in 1890 the rate was, for general purposes, seven-tenths of a mill; for canal purposes, six-tenths of a mill; and for schools (teachers' wages only), one and four one-hundredths mills; in all, two and thirty-four one-hundredths mills.

In 1891 it was thought that the special sources of revenue would be sufficient to meet all expenditures for general purposes, so that only canals and schools need be provided for by general taxation.

When the rate of the tax is determined, the Legislature enacts a law directing the same to be levied upon the taxable property of the state. This is done every year.

The comptroller notifies the boards of supervisors, through their proper officers, of the rate of state tax to be levied, and it becomes their duty to see that the same is included with the county and town tax as levied by them. It is levied upon the equalized valuation established by the state board of equalization.

**2. The County Tax.** — The amount to be raised in each county for county purposes is fixed by its board of supervisors. This is added to the amount of the state tax to be collected, and the sum is apportioned among the towns and wards in the county on the basis of the equalized valuations fixed by the board of supervisors.

3. **The Town Tax.** — The amount of money to be raised for town purposes is determined by the legal voters at town meeting, and by the board of town auditors. This is reported to the board of supervisors. The board adds the amount approved by the tax authorities of each town, to the amount of state and county taxes which it has been found liable to pay; and these three items constitute the tax levy for each town for that year.

4. **City Taxes.** — The amount to be raised by general tax for city purposes is determined, not by vote of the people, but by the city authorities, generally; but not always, by the common council. The amount is, however, reported to the board of supervisors, who proceed with it the same as they do with the town tax; that is, add it to the amount of state and county tax for which the city is liable.

5. **The Collector.** — When the tax roll is completed, the supervisors attach to it their warrant, directed to the collector of the town or city, commanding him to collect from each of the taxable inhabitants named on the roll, the sum set opposite to his name thereon. He is also directed to pay the amounts collected for town or city purposes to the proper officers authorized by law to receive the same, and the amounts for county and state purposes to the county treasurer. This officer is required by law to remit the amount of the state tax received by him from the collectors, to the state treasurer.

6. **Village Taxes.** — Villages pay the ordinary taxes for town purposes, in common with the inhabitants of the town of which they are a part. But the tax to meet village expenditures, authorized by law, is levied by the



trustees, and collected by the village collector, under the authority of a warrant signed by the president and clerk of the village.

7. **School District Taxes.** — These will be considered elsewhere. (See pp. 128, 132, 133.)

8. **Assessments.** — These are another class of taxes levied for special purposes, chiefly in cities and villages. They are for such objects as sewers, opening, grading, and paving new streets, local parks, and the like. The cost of such improvements is not levied upon the property of the municipality at large, but is assessed upon the property along the line, or in the near vicinity of the improvement. The assessment is not levied upon the salable value of the property affected, but upon the basis of the supposed benefit which it will derive from the improvement. *These* assessments must be carefully distinguished from the assessments of *value* for the purposes of general taxation.

Such are the processes employed for the raising of money for the support of the government in all of its various departments, state, county, town, and municipal. They differ widely from the processes employed by the United States government, as will be learned from the text-books on civil government which cover that broader field.

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#### QUESTIONS RELATING TO CHAPTER III.

1. By whose authority are taxes levied? How do municipal divisions — towns, counties, villages, and cities — get authority to levy taxes?
2. What do you understand by special taxes? What by general taxes?
3. Give the process of assessment.
4. Mention the various steps in the process of levying and collecting taxes. Name all the officers you can think of who are charged with some duty in connection therewith. State what their respective duties are.



## CHAPTER IV.

## EDUCATION.

THE first settlers in New York came from a land of schools. The republic of the Netherlands was the foremost country in Europe in promoting education, not only for the wealthier classes, but for the children of the common people.

The colonists of New Netherland, which name they gave to their adopted home, brought with them to the new world the love of freedom and for learning, which they had formed in the old.

Within ten years after the settlement of New Amsterdam, a school was established, of which the record now exists; and it is not to be presumed that the education of the children was wholly neglected during the previous ten years. When the population of the colony had increased to seven or eight hundred, the home government, upon the petition of the colonists, supplied them with two schoolmasters. The object in securing two seems to have been that something might be taught besides reading and writing.<sup>1</sup>

These schools were supported out of the public treasury. Besides these public or official schools, private schools were also maintained; but they could be taught only by masters whom the authorities approved.

<sup>1</sup> Hon. A. S. Draper, in *Educational Monthly*, April, 1892.

Thus early in the educational history of the state do we find the principle established of employing only those teachers who were qualified according to law.

After the colony passed under English rule, English ideas of education had precedence, and high schools found favor over schools for the common people.

**First Movement for Higher Education.**— This was the paramount influence at the time of the organization of the state in 1777. The first act of the state Legislature, for the promotion of education, was in 1784, very soon after the close of the war. It incorporated the Board of Regents of the University of the State of New York, and placed under its control and supervision the academies and colleges of the state. The organization as first planned was found to be defective, and in 1787 a new act was passed constituting the board of regents upon substantially its present basis. As may be supposed, its powers have been greatly enlarged and its efficiency improved since that early day. It is now a great, salutary, and beneficent power in the state in the promotion and improvement of higher education.

The “**University**” of which the board of regents is the administrative authority, consists of all incorporated institutions for academic and collegiate education, together with the state library, state museum, and such other libraries, museums, and institutions for higher education as may be sanctioned by the regents of the university.

The board of regents consists of twenty-three members, of whom the governor, lieutenant-governor, secretary of state, and superintendent of public instruction are *ex officio* members.

Regents are chosen in the same manner as United States senators, for life, and serve without salary.

**Common Schools.** — The first act of the Legislature which recognized the education of the children of the state as a matter of public concern was in 1789. Under the provisions of an act in that year, the surveyor-general of the state was directed, in the sale of the public lands of which the state owned a vast area, “to reserve in each township one lot for the support of the gospel and one lot for the use of schools in such township.” In some towns of the state these lots still remain a source of revenue for the schools in the town. They are, however, an unimportant resource, the entire revenue in 1891 being only about \$30,000.

In 1795 the Legislature appropriated \$100,000 annually, for a period of five years, for the encouragement of schools. The supervisors were required to assess upon the towns, for the support of schools, a sum equal to one-half that received by them from the state for that purpose. This appropriation was continued, however, for only three years.

In 1805 an act was passed appropriating the net proceeds of five hundred thousand acres of land first sold, “to raise a fund for the encouragement of common schools.” No distribution from the income of the fund was to be made until this should reach the sum of \$50,000 annually. This was the inception of what is now known as the “common school fund.” In the meantime, from 1798 to as late as 1815, what schools there were, seem to have been sustained by voluntary effort.

In 1812 we have the first act in this state for the

“*establishment* of common schools.” Its provisions comprised :—

1. A state superintendent of common schools, with certain defined powers and duties in relation to their organization, and to whom their reports were to be forwarded.

2. In each town, three commissioners were to be elected, with power to form and alter school districts, and to supervise the schools in the town. This was the first attempt at a defined organization of school districts within a defined territory, and with prescribed corporate powers.

3. The commissioners, together with not more than six persons, also elected by the voters of the town, constituted a board of inspectors, whose duty it was to examine and license teachers and visit the schools.

4. It was made unlawful to employ any one as teacher who did not hold a certificate or license to teach, signed by at least two of the inspectors. Herein is found the first application of some legal test of qualification for teachers. Such were the provisions for towns concerning the establishment of common schools within their borders.

5. **School Districts.**—When these were formed by the town commissioners they became invested with certain corporate powers, among which was the election of three trustees to have control of the affairs of the district, employ teachers, and otherwise have the care of school matters. The inhabitants also had power to designate a site, build a schoolhouse, and vote a tax upon the district to pay for the same. These provisions and many others embodied in the act of 1812 are in force to this day.



6. The trustees were required by law to report the statistics concerning their schools to the town inspectors, who compiled and forwarded them to the county clerk. By him they were transmitted to the state superintendent.

7. Provision was made for the distribution among the districts of the income from the common school fund, but it does not appear that this had at that time reached the sum of \$50,000 required before a distribution could be made. The first distribution appears to have been in 1815. When made, it was only to such towns as had, for the previous year, raised by tax an amount for the support of schools equal to that received from the state, and to those districts that had maintained a school taught by a legally qualified teacher for three months during the previous year. These moneys were applicable only to the payment of teachers' wages. The latter provision exists to-day, except concerning the small sum applied for library purposes.

In 1814 this act was superseded by "an act for the better establishment of common schools." The salient features of the act of 1812 were embodied in the later act, and defects and weaknesses in the former were corrected in the latter.

**The Rate Bill.** — Among the new features incorporated in the later act, was a provision empowering the trustees to collect from those who sent their children to school, the residue of the teacher's wages, after applying thereto the state moneys and the moneys derived from the town tax for the support of schools.

This was the introduction of what became known as the "rate bill" system of collecting teachers' wages,



and which tenaciously held its own in the common school system of the state for a period of more than fifty years. It was abandoned in 1867 by a provision for the collection of the residue of teachers' wages by tax on the district.

Through all the changes wrought from time to time in the common school law of the state it has held and still holds firmly to these elementary principles: (1) official authority for the formation and alteration of school districts; (2) the employment of none but legally qualified teachers; (3) the control and management of the school, through officers chosen by the inhabitants of the district.

The office of superintendent of schools was abolished in 1821, and its duties were transferred to the secretary of state. The office of state superintendent of public instruction was created in 1854.

**Town Superintendents.** — In 1843 commissioners and inspectors of schools in towns were superseded by an officer called town superintendent, upon whom was conferred all the powers of the former officers in respect to the formation and alteration of districts and the examination of teachers and visitation of schools.

**Present Organization.** — The present organization of the state common school system is substantially as follows: —

**Superintendent of Public Instruction.** — This officer is elected by joint ballot of the Senate and Assembly for the term of three years. He has general supervision of the public schools of the state. His duties are chiefly administrative and executive, though he is also invested with important judicial powers. He apportions

the state school moneys according to law, and may withhold the moneys from districts which have failed to comply with the law in respect to their schools. He counsels with the school commissioners, appoints the instructors at teachers' institutes, conducts examinations for state teachers' certificates, and performs many other important duties. He is *ex officio* a member of several educational boards, as regents of the University, trustees of Cornell University, of Syracuse University, and other institutions. He has the general supervision of the normal schools of the state.

In his judicial capacity he hears and decides appeals relating to school controversies from any part of the state. These are presented in writing, supported by affidavits. Concerning these he establishes the rules of procedure. His decision is made final and conclusive, and the supreme court has refused to review his action.

**School Commissioners.** — The office of town superintendent of schools was abolished in 1856, and the powers and duties of that officer in respect to the formation and alteration of school districts and to the examining and licensing of teachers, were imposed upon an officer styled school commissioner. They are elected in divisions of territory known as school commissioner districts. Originally these conformed, as nearly as was practicable, to the Assembly districts in the state, exclusive of cities which maintained their own local supervision.

But the changes made in Assembly districts, resulting from their reapportionment to meet the changes in the numbers and distribution of the population, have left the school commissioner districts a local division, in many of the counties, largely independent of any other.

They reapportion the state school moneys, apportioned by the state superintendent to the several counties, amongst the school districts in each town, upon the basis of distribution established by law, and the direction of the state superintendent. Where there is more than one school commissioner in a county, the commissioners meet and act together in making the apportionment. They possess other important, and in certain cases, quite arbitrary powers.

They are elected for a term of three years, and receive from the state an annual salary of \$1000, payable from the Free School Fund.

**The School District** is the unit of the common school system. Like the town it is a limited democracy, its powers being exercised in popular assembly, but only such powers as are conferred by law. Its officers are chosen at an annual district meeting, by vote in such form as the meeting may direct. The time of holding the annual meeting is fixed by law. It has been changed by the Legislature several times, and is liable to change at any time. Special school district meetings may be called by the trustees, the object of which must be set forth in the notices for the same. An annual or special meeting may adjourn from time to time. The inhabitants are required to vote a tax for certain purposes, as for teachers' wages, or if they refuse or neglect to do so the trustees may levy a tax without such vote. Taxes for most other purposes are left to the discretion of the school meeting.

**Officers.** — The officers of a school district are, one or three trustees as the district may elect, a clerk, collector, and librarian.

**The Trustees** are the executive officers of the district. They employ teachers, have the care and custody of the schoolhouse or other property of the district, levy taxes voted by the district or required by law to be levied, attend to making needed repairs, provide fuel and such furniture as may be required, and generally have charge of the affairs of the district.

**The District Clerk** gives notices of district meetings in the manner prescribed by law, records their proceedings, receives and preserves all notices, books, or papers required to be filed with him, and delivers the same to his successor.

**The Collector** collects all taxes levied by the authority of the district or by the trustees, when authorized by written warrant of a sole trustee or a majority of three trustees. He is for the district what a town collector is for the town. Until recently he held in his hands, subject to the order of the trustees, only the moneys received by him as collector. But by an act of the Legislature in 1890 a district may vote to make the collector the custodian of the state school moneys apportioned to the district, as well as of the moneys collected by him, upon his executing a satisfactory bond to the trustees. Previously these state school moneys were received by the supervisor of the town and held by him, payable only upon the order of the trustees.

**The Librarian** has charge of the district library—when there is any.

**City and Village Schools.**—Most of the cities in the state, and many of the larger villages, are organized, as to their schools, by special acts of the Legislature under which there is elected or appointed a body of citi-



zens called a board of education, to whom is committed the control and management of the school or schools of the city or village, with such powers and duties in relation thereto as are prescribed in such special law. In Buffalo, the power to establish, maintain, and regulate the public schools is conferred upon the common council. A superintendent of education elected by the people is at the head of the department of public instruction. He is the executive officer of the system of which the common council is the legislative power. This form of organization is unusual.

**Union Free School Districts.** — The law under which these are formed was enacted in 1853. It has been amended from time to time, but its general scope and purpose remain.

The occasion of its enactment was to give to villages not under special acts, and to populous centers not incorporated, opportunity to secure a more effective school organization than was practicable under the general district system. These localities were frequently divided into two or more districts. By combining their wealth and facilities, a central school, properly graded and classified, could be maintained, which would not be possible in their dismembered state. They could also increase the attendance at school, not only by affording a better and more attractive school organization, but by making them free in fact as well as in name, through the removal of what had come to be known as the "odious rate bill."

The act provided for the consolidation of such districts, by a vote of the inhabitants. It also provided that any single district might change its form of organization to that prescribed in the law.



Upon the formation of a Union Free School District by a vote of the inhabitants of the district or districts affected, the new organization could proceed to elect not less than three nor more than nine trustees who should constitute a board of education for the new district. Thereupon the functions of the officers of the former districts ceased.

Under this organization much larger powers concerning the schools are conferred upon the board of education than upon the trustees of school districts generally, also much larger powers upon the inhabitants of such districts than upon those of the districts generally. Among these, at the time of the passage of the act, and for many years after, was that of levying a tax for the payment of teachers' wages in excess of the state school moneys for that purpose. Since 1867, when this power was given to all districts, this feature has ceased to be distinctive.

The board of education may grade and classify the school or schools of the district and may establish an academical department therein. Whenever an academical department is established in such district it may be placed under the supervision of the regents of the university the same as the academies of the state.

**Normal Schools.** — The first normal school for the better education and for the professional training of teachers was established at Albany in 1844. Its course of instruction and its general scope have recently been enlarged, and it is now known as the Albany Normal College.

The other normal schools of the State, and the dates of their commencement, are the following: Brockport, 1867; Buffalo, 1871; Cortland, 1869; Fredonia, 1868;

Geneseo, 1871; New Paltz, 1886; Oneonta, 1889; Oswego, 1863; Plattsburg, 1890; and Potsdam, 1869. The attendance of normal pupils in all these schools, during the year 1891, was 3904. The number of graduates was in that year, males, 105; females, 567; total, 672. The whole number of graduates from all of the schools since they were established is, males, 1999; females, 7096; total, 9095. Probably half as many more have left the schools before completing the course.

These schools are all supported by the state.

The cities of New York and Brooklyn maintain schools for the professional training of their teachers, for which they receive no aid from the state.

**Teachers' Institutes** are brief schools for the professional instruction of teachers in the several counties. They are under the immediate direction of the school commissioners. The instructors are assigned by the state superintendent. They are in session but one or two weeks, but they are of great value to young and earnest teachers whose facilities for learning how to teach have been limited.

**Teachers' Classes in Academies** are established for a like purpose, and have the advantage of a longer term for instruction. These, like the Institutes, are under the general supervision of the state superintendent. Both are supported by the state.

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#### QUESTIONS RELATING TO CHAPTER IV.

1. Name three essential elements in the school organization of this state.
2. Who has authority to form and alter school districts? To examine and license teachers? To employ teachers?

## CHAPTER V.

## EMINENT DOMAIN

IT is necessary, at times, for the state to acquire property for its own use.

It must have public buildings, and these must be located with reference to convenience in the transaction of the public business. It must have canals for the transportation of bulky merchandise, the opening up of markets for the products of the county, and the building up of the prosperity of the people. For the like reasons it must itself construct or grant authority to others to construct railways. It must have highways, and it must have them where they will best serve the interests and the convenience of the people.

Of the necessity for these things, and of the proper or best location for them, the state must judge, for the state is the representative of the people.

There is no way in which the state can acquire the properties which are found necessary for it to possess, unless it have power to take them by the strong arm of authority.

In despotic governments this power is unlimited in the sovereign. Even in England, the Parliament takes property for the public use and makes no compensation therefor.

But in this state, the Constitution, mindful of the

inalienable rights of the citizen, provides — Article I, section 6 — that “private property shall not be taken for public use without just compensation.” Thus the needs of the state are provided for, and the rights of the citizen are maintained.

The authority under which private property is taken for public use is called eminent domain. It is defined to be “the right which a people or a government retain over the estates of individuals, to resume the same for public use.”

Both the Constitution and the statutes, in defining how private property may be taken, make very careful provision for the protection of the rights and interests of individuals. The proceedings are so carefully guarded that complaint is seldom made of injustice in the award of compensation. Besides, the government in many cases comes to an agreement with owners concerning the price to be paid for property which it needs. The proceeding under which property is taken by right of eminent domain, and the compensation awarded, are known as proceedings in condemnation.

In 1866 the statute first applied the right of eminent domain to the acquisition of district schoolhouse sites. In 1886 the provisions of the statute were extended to the city of Brooklyn.

Prior to the enactment of the statute of 1866, it was oftentimes found very difficult to secure an eligible site for a schoolhouse in the country districts, so located as to be convenient of access for all the children of the district.



## CHAPTER VI.

## LAW AND EQUITY.

THE frequent use in common life of the terms law and equity lead naturally to an inquiry as to the distinction between them.

No more than a brief explanation or illustration can be given here.

Suppose "A" has agreed to purchase from "B" and "B" has agreed to convey to "A" a tract or parcel of land, and "A" has paid a given sum to bind the bargain. If for any reason "B" afterwards refuses to convey, "A" has his remedy at law against "B" for breach of contract. He may commence an action against him, not only to recover the money which he has paid on the contract, but a sum for damages which he may claim to have sustained by reason of the breach. Thus he may have employed an architect to plan a house to be erected on the premises, and may have incurred other expenses.

If he commences an action at law, he will get such sum in damages as the court, upon the evidence furnished, finds him entitled to.

But suppose that what "A" wants, is not damages, but a specific performance of the contract on part of "B." He will then ask the court to compel "B" to convey the premises in question. This will be an action in equity. It may be in the same court and before the



same judge as would have had charge of the action for damages had "A" sought that remedy.

Until the Constitution of 1846 came in force, the branch of the judicial department to which was committed the trial of all actions in equity, was called the court of chancery, the chief judge of which was styled the chancellor.

The Constitution of 1846 abolished the court of chancery, and invested the supreme court with all of its powers.

The distinction between law and equity will be seen from our illustration. The law gives to a complainant money damages for an injury which he has sustained by reason of a breach of contract. Equity will, in his behalf, compel a specific performance of the contract by the party complained of.

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#### QUESTIONS RELATING TO CHAPTERS V. AND VI.

1. Find by inquiry, out of school, one or more instances of the exercise of the right of eminent domain, and give an account of it.
2. Try and make up another case than that in the text that will illustrate the difference between law and equity.
3. If you cannot do it, go to some lawyer friend and ask him to give you some instances. When you are in the pursuit of knowledge with a clear idea of what it is you want to know, it will do you no harm to be told.

# APPENDIX.



## DEFINITIONS.

[IT is not claimed for the following that they are anything more than a rational explanation of the sense in which the words are employed in this book.]

**Abridge**: to deprive; to cut off.

**Act**: the decision of a legislative body in passing a bill. The bill itself, if approved by the governor, then becomes an "act" of the legislature.

**Adjudication**: the act of trying and determining an issue by a competent court.

**Administration (of government)**: the act of carrying on the government through its constituted officers; the policy and course of the government under a party.

**Aggregate**: taken all together; collectively.

**Alternate**: to vary by turns.

**Alternately**: varying by turns.

**Appellate (court)**: a court having cognizance of appeals from the decisions of lower courts.

**Appellate (jurisdiction)**: having authority to hear appeals only, — in distinction from original jurisdiction (which see).

**Apportion**: to divide or distribute according to a rule established by competent authority.

**Apportionment**: the distribution of moneys as directed by law.

**Appropriate**: to set apart moneys for certain defined purposes.

**Appropriation**: the act of setting apart moneys; also applied to the sum set apart for any given purpose.<sup>1</sup>

<sup>1</sup> A legislature appropriates moneys. A properly constituted officer apportions the moneys thus appropriated.

**Approximate**: to come near.

**Approximately**: nearly.

**Audit**: to settle, adjust, or approve an account.

**Auditor**: an officer authorized to examine and adjust an account.

**Ballot** (see also "**Ticket**," "**Vote**") : a written or printed ticket used in voting. Also see p. 113.

**Beneficent**: that which does or produces good.

**Beneficiary**: one who receives a gift or benefit.

**Bill (legislative)**: the draft of a law proposed for enactment.

**Bill (of indictment)**. See "**Indictment**," "**True bill**." Also see p. 67.

**Bureau (official)**: a branch of public business, subordinate to or within a department.

**Campaign (political)**: the operations of party workers during the period between the nominations of candidates and the election.

**Capital**: the city or town where the legislature convenes; the seat of government.

**Capitol**: the structure in which the legislative sessions are held.

**Caucus**: an unofficial meeting of voters of one political party to nominate candidates or to agree upon a line of policy.

**Charter**: the act of a legislature by which or under which a corporation is formed.

**Collateral**: occupying a secondary or subordinate relation or position to something which is first or primary; attendant as auxiliary or incidental only.

**Commutation**: the act of substituting something less for something greater; as imprisonment for life, in place of a sentence to death.

**Commute**: to substitute a less for a greater.

**Competent (jurisdiction)**: having legal authority to act.

**Concession**: a giving up on demand, — distinguished from giving up voluntarily.

**Concurrent**: occurring or happening at the same time.

**Concurrently**: acting upon the same question at the same time.

**Constituency**: the body of citizens or voters in a representative district.

**Construction (of statutes)**: a declaration of the meaning of a statute by considering its relation to attendant facts and circumstances. It differs from interpretation (which see).

**Contiguous**: touching along a line of division; adjoining.

**Conviction (judicial)**: the finding of a judgment of guilty after trial by a competent court.

**Corporate**: formed into a body with certain defined powers, by legal authority.

**Corporation**: a body formed under authority of law, with certain powers and privileges, having the right of succession.

**Deed**: an instrument in writing, under seal, containing a transfer of real property (land).

**Discussion**: the statement of a case and the process of reasoning upon it, or of making it clear.

**Distress (and sale)**: the seizing of property for a debt or tax, in order to secure payment by sale of the property seized,—hence taken together.

**Diversified**: varied; distinguished by differences; dissimilar.

**Diversity**: variety; dissimilarity.

**Elective**: entitled to be filled by election.

**Elective franchise** (see also "**Franchise**"): the privilege or right of voting.

**Elector**: a voter.

**Elementary**: pertaining to the first principles of anything.

**Eligibility**: the condition or quality of being eligible.

**Eligible**: duly or legally qualified.

**Enunciate**: to announce, or to declare.

**Ephemeral**: short-lived; abiding but a short time.

**Ex-officio**: by virtue of one's office.

**Exposition**: a statement or explanation of the sense or meaning of a passage of writing or of a law.

**Expound**: to explain the meaning of anything, as of a law.

**Factor**: one of the elements or principal parts which conduce to a result.

**Fallible**: liable to err.

**Felony**: a crime punishable by death or by imprisonment in a state prison.

**Fiscal**: pertaining to the financial or money operations of a government.

**Fiscal year**: the twelve months for which the accounts of the money affairs of a government are made up. In New York this is from October 1 to September 30.

**Formulate**: to put in a definite form of statement.

**Franchise**: a privilege; sometimes an exclusive privilege.

**Function**: the course of action or of duty which pertains to a public office.

**Goods and Chattels**: a compound term, used to denote personal property with a possible interest in, without ownership of, real property.

**Heir**: one who, under the law, is entitled to succeed to the property of another upon his death.

**Impeachment**: a calling to account, as a public officer for maladministration.

**Inception**: the beginning.

**Incidents**: things which depend upon some other things that are principal or leading. Incidents are subordinate or casual.

**Incitement**: motive, impulse, or stimulus to action.

**Incorporated**: being in a corporate state or condition.

**Incumbrance**: a charge upon property; a claim or lien upon an estate, casting a doubt upon the title.

**Indictment**. See p. 67; see also "**True bill.**"

**Indigent**: poor; needy.

**Inheritance**: something derived by an heir from an ancestor; that which passes by descent.

**Inhibition**: a restraint; a prohibition.

**Instrument**: a writing which expresses some act or agreement between parties, as a deed or mortgage.

**Interpretation (of statute)**: an explanation by judicial authority of what is uncertain or obscure.

**Intervention**: an interference affecting the interests of others.

**Intestate**: a person who dies without having made a will.

**Investiture**: that with which one is put in possession, as an office.

**Invoke**: to summon.

**Issue**: the point of law or fact presented to a court for decision.

**Judgment**: the decision of a court or judge, distinguished from verdict, which is the conclusion of a jury.

**Jurisdiction** (see also "**Original jurisdiction**"): the limits within which a given power may be exercised.

**Law** (see also "**Statute**"): a rule of action, enacted or declared by competent authority, by which a community consents to be governed.



- Legatee**: one upon whom property is bestowed by a will.
- Lien**: a legal claim upon property as security for the satisfaction or payment of a debt.
- Majority**: more than half.
- Mandate**: a command.
- Misdemeanor**: a crime or offense of lower grade than a felony (see "Felony").
- Mortgage**: a conveyance of property as security for the payment of a debt, upon conditions, which if fulfilled, render the conveyance void.
- Motion (judicial)**: an application made by an attorney to a court or judge for an order in an action or proceeding.
- Municipal**: pertaining to a corporation, as a city.
- Municipality**: an incorporated community, as a city, village, or town.
- Nomenclature**: a collection or list of names used in any branch or department of science or of thought or action.
- Order (judicial)**: a direction or authority given by a court or judge in an action or proceeding.
- Organic law**: that which is fundamental in the structure of organized society. The constitution is the organic law of a state.
- Original jurisdiction** (see also "Jurisdiction"): having jurisdiction in the first instance.
- Pharmacist**: a skilled druggist.
- Plurality**: the highest of several numbers.
- Poll or Polls**: the place where votes are received at an election, — commonly used in the plural.
- Prerogative**: a privilege inherent in one's office or position; an official and exclusive right.
- Presentment**: notice taken by a grand jury of any matter of their own motion, and *presented* to the court without a bill of indictment, as of a public nuisance.
- Presidential year**: the year in which a president is elected.
- Primary (political)**: a meeting for political purposes, as the nomination of candidates or the selection of delegates to nominating conventions; the inception of organized political action.
- Probate**: (noun) the official proof of a will; (verb) the obtaining of the legal and official proof of a will.

**Procedure (judicial)**: the manner and order of proceeding prescribed by law, or by the rules of a court, in bringing actions and conducting trials.

**Process (of a court)**: summons or warrant by which a party is brought before a court; or a direction or order of the court affecting an action before it; the procedure by which a cause is brought before a court.

**Promulgate**: to make known by open declaration.

**Quasi**: having more or less resemblance to; qualified; seeming or apparent.

**Quorum**: the number of persons in a body of members necessary for the legal transaction of business.

**Reprieve**: (verb) to temporarily suspend the execution of a sentence; (noun) the temporary suspension of a sentence.

**Right of suffrage** (see also "**Suffrage**") : the right to vote.

**Sentence (judicial)**: (noun) the judgment pronounced upon a criminal after conviction.

**Statute** (see also "**Law**") : an act of the legislature.

**Suffrage** (see also "**Right of suffrage**") : vote.

**Ticket** (see also "**Ballot,**" "**Vote.**" Also see p. 113) : the printed list of candidates to be voted for by a party.

**Transition**: passing from one state or condition to another.

**Tribunal**: a seat of judgment; a body invested with power to pass judgment on questions presented before it.

**Triplicate**: threefold.

**True bill** (see also "**Indictment**") : the indorsement on the back of an indictment, when found by a grand jury.

**Veto**: the right to interpose a negative; to forbid; also the act of forbidding.

**Viva voce**: by the living voice.

**Void**: having no legal force or effect.

**Vote** (see also "**Ballot,**" "**Ticket.**" Also see p. 113) : the expression of a choice; a ballot; a ticket.

**Voter**: one who has a legal right to vote; an elector.

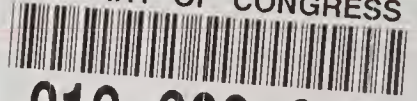








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